









## INDEX

TO THE

### ACTS OF THE GOVERNMENT OF INDIA.

FOR 1852.

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## ACT NO. I. OF 1852.

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***Passed by the Hon'ble the President of the Council of India  
in Council, on the 2nd January 1852, with the assent  
of the Most Noble the Governor General of India.***

***An Act for the consolidation and amendment of the Laws relating to  
the Customs under the Presidency of Bombay.***

WHEREAS it is expedient to consolidate into one Act the laws now in force, relating to the customs under the Presidency of Bombay, and also to amend the rules for the collection and management of the same, It is enacted as follows :

I. The following Regulations and parts of Regulations of the Bombay Code, and the following Acts and parts of Acts of the Government of India, are repealed, that is to say, Sections I. II. and III., Regulation VI. of 1799 ; Clause II. Section VII. Regulation IX. of 1800 ; Sections XIV. XVII. XX. XXI. and XXV., Regulation I. of 1805 ; Section IV. Regulation II. of 1810 ; Regulation VI. of 1814 ; Chapters III. V. and VII. Regulation XX. of 1827 ; Regulation I. of 1833 ; Act I. of 1838, except in so far as it repeals any Regulation of the Bombay Code, or Act of the Government of India ; Act IX. of 1845, so far as it relates to the Bombay Presidency, except so far as it repeals any other Act; Act II. of 1846 ; and all other Acts and parts of Acts, and all other Regulations and parts of

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**Regulations of the Bombay Code, so far as such Acts or Regulations prescribe the levy within the Bombay Presidency of any customs duties, as well on transit by land as on import and export by sea, or which relate in any way to such duties, or which require the payment of any fee leviable by Customs Authorities on account of any vessel which may enter any port in the territories subject to the Presidency of Bombay.**

**II.** Nothing hereinbefore contained shall be construed to prevent the levy of any anchorage or harbour dues now leviable at the port of Bombay, or the levy of any special duties on opium, tobacco, gunja, spirits or salt which are, or may be, established by any Law, or the levy of any town duty, or of any Municipal Tax, or of any toll on any bridge, road, canal or causeway, or for repair and maintenance of light-houses, or the levy of any rent or fee leviable under Act XXV. of 1836, on the warehousing of goods.

**III.** The Governor of Bombay in Council may appoint one or more persons, to be Commissioners of Customs for the collection and management of the customs throughout the whole of the Presidency of Bombay with such salary or salaries as the said Governor in Council may deem reasonable; the persons so appointed shall hold their offices during the pleasure of the said Governor in Council, and shall, in all matters relating to the execution of their duties, be subject to the authority, direction and control of, and obey such orders and instructions as shall, from time to time, be issued to them by, the said Governor in Council.

**IV.** The Governor of Bombay in Council may appoint such persons as he may deem fit for the control and supervision of the collection and management of the customs in the Bombay Presidency under this Act, as Collectors of Customs, or under such other designation as the said Governor in Council shall determine; the persons so appointed shall be subject to

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to the authority and control of the Commissioner or Commissioners (if any such officer shall have been appointed) in such manner and to such extent as the said Governor in Council, from time to time, may direct.

V. The Governor of Bombay in Council may appoint all other proper persons to execute the duties of the several subordinate officers necessary to the due management and collection of the customs, and may require from such persons such securities for their good conduct therein as the said Governor in Council may deem necessary ; and may, from time to time, transfer any part of the duties and powers of any officer of customs under this Act to any other officer in such cases and under such restrictions as the said Governor in Council may deem fit ; and every officer of customs appointed or employed on any duty relating to the said customs shall hold his office during the pleasure of the Governor of Bombay in Council : all persons holding any office or employment in the said customs, at the time of the passing of this Act, shall continue to be so employed therein under this Act until duly removed therefrom.

VI. The Governor of Bombay in Council may delegate the whole or any portion of the powers with which he is invested by the preceding section to any Commissioner or Collector or other officer of customs regularly appointed under the provisions of this Act, and all subordinate officers of customs, who may be appointed by such Commissioner or Collector, or other officer of customs, by virtue of such delegated power shall be liable to be dismissed, suspended or fined to an extent not exceeding two months' pay by the authority by which they were respectively appointed, subject to the control of Government, or of superior authority in the customs department.

VII. Whoever intentionally obstructs any officer, in the exercise of any powers given by this Act to such officer, shall be liable to imprisonment

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**VIII.** Any person, who shall offer a bribe to any custom house officer in order to induce such officer to act in a manner inconsistent with his duty, shall be liable for every such offence to a fine not exceeding one thousand rupees, or to imprisonment for any term not exceeding six months, or both.

**IX.** No action shall lie in the Supreme Court for any act or thing done under this Act; but every action for any wrong or trespass, if committed within the local limits of the Island of Bombay, shall be tried and determined before the Revenue Judge of Bombay, and if committed in any part of the Presidency of Bombay without those limits, then before the proper Zillah Judge within whose jurisdiction the same shall have been committed; and such Revenue Judge of Bombay, or Zillah Judge respectively, shall award such damages to the party aggrieved for the injury done as shall be just and equitable: Provided, that if it shall appear that there was reasonable and probable cause for the act complained of, the plaintiff shall not be entitled, beyond the restoration of any article unlawfully seized, or the value thereof, to more than two annas damages without costs.

**X.** Whoever, being an officer appointed under the authority of this Act, shall be guilty of a wilful breach of the rules prescribed in this Act, or any other rules that shall be passed by the Governor of Bombay in Council under the authority of it, or shall accept, or obtain or attempt to obtain from any person any property, gratuity or benefit as a consideration for doing or forbearing to do any official act, shall be liable to imprisonment for any term not exceeding two years, or to fine, or both.

**XI.** Whoever,

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**XI.** Whoever, being an officer appointed under the authority of this Act, practises or attempts to practise any fraud for the purpose of injuring the customs revenue, or abets or connives at any such fraud, or at any attempt to practise any such fraud, shall be liable to imprisonment for any term not exceeding two years or to fine, or both.

**XII.** In all cases in which under this Act, goods are liable to confiscation, and in all cases in which under this Act, any person in charge of, or owning a vessel, or landing or shipping goods, or passing them through the custom house, is liable to a penalty, a Commissioner or Collector of Customs may adjudicate such confiscation or such penalty; or the same may be adjudged by a Deputy or by an Assistant Collector of Customs being a Justice of the Peace: Provided, that the power to adjudicate confiscation shall not extend as regards a Deputy Collector to goods beyond the value of rupees one thousand, nor as regards an Assistant Collector to goods beyond the value of rupees one hundred, nor shall any Deputy Collector impose any fine beyond the amount of rupees fifty, nor any Assistant Collector beyond the amount of rupees ten; and all cases adjudicated by a Deputy or Assistant Collector shall be liable to revision by a Collector of Customs on appeal.

**XIII.** In case any goods, ship, vessel, boat, cart, vehicle or other article shall be seized as forfeited, or detained as under-valued under this Act, the adjudicating officer may order the same to be restored in such manner and on such terms and conditions as he thinks fit to direct; and if the proprietor of the same accepts such terms and conditions, he shall not have or maintain any action for recompense or damage on account of such seizure or detention, and the adjudicating officer shall not proceed to condemnation.

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**XIV.** Any Collector of Customs or other officer, who is authorized to adjudicate customs cases, if he shall decide that a seizure of goods made under the authority of this Act was vexatious and unnecessary, may adjudge damages to be paid to the proprietor by the customs officer who made such a vexatious seizure, beside ordering the immediate release of the goods; and if the proprietor accepts such damages no action shall thereafter lie against the officer of customs, in any court of justice, on account of such seizure; and if such adjudicating officer shall decide that the seizure was warranted, but shall deem that the penalty of confiscation is unduly severe, he may mitigate the same by levying on the goods so seized as aforesaid, any portion of the market value of such goods not less than one-tenth of such value; and if the said officer adjudges confiscation, or any penalty in mitigation of confiscation, he may order that from the sale of the goods, or from the proceeds of any penalty inflicted in mitigation of confiscation, a proportion not exceeding, in all cases of seizure except seizures of salt or tobacco, one-half of the sum remaining after payment of all Government demands shall be distributed in rewards amongst such officers as he deems entitled thereto, and in such proportion as he directs to each respectively: but in awarding rewards for the seizure of confiscated salt or tobacco, he may award one-half of the proceeds of sale, without making any deduction on account of Government demands.

**XV.** All penalties under this Act, except those specified in any judicial award of the Collector or other adjudicating officer, as provided for in Section **XIII.** of this Act, shall be adjudged and determined by the Officiating Magistrate of the place where the offence shall have been committed; and any Collector being a Justice of the Peace, or Deputy or Assistant Collector authorized in such behalf by his superior and being a Justice of Peace, may take informations and depositions on oath or solemn affirmation or declaration touching any matters involving a breach of any

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any of the provisions of this Act, and if taken in the presence of the party or parties charged with such breach, the same shall be received in evidence by such magistrate in the like manner and to the same extent as if taken before him, and shall be deemed sufficient for him to adjudicate thereon: but nothing herein contained shall prevent such magistrate from taking any information or deposition afresh, or from taking other and further depositions in the matter, if he think fit.

**XVI.** If any person in charge of, or owning a vessel shall have become liable to any fine on account of any act or omission relating to the Customs, the Collector of Customs, subject to the orders of the Governor of Bombay in Council, may refuse port clearance to such vessel until the fine is discharged; and in like manner if any person passing goods through the custom house, shall have become liable to any fine, the Collector of Customs may detain such goods until the fine is discharged.

**XVII.** No person shall act as an agent for transacting business in the custom house in the port of Bombay which shall relate to the entrance or clearance of any ship, goods, or baggage, unless authorized so to do by licence of the Collector of Customs, who may require a bond to be given by every person to whom such licence shall be granted, with sufficient securities, in any sum not exceeding five thousand rupees for the faithful and incorrupt behaviour of such person as regards the custom house regulations and its officers; and every person who shall act as such agent not being so licensed shall, for every such offence, be liable to a fine not exceeding the sum of five hundred rupees: Provided always, that nothing herein contained shall extend to forbid the clerk or servant, or known accredited agent of any person, or of any mercantile firm, from transacting business at the custom house on account of such person or firm without licence.

## **XVIII. Duties**

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**XVIII.** Duties of customs shall be levied on goods imported by sea from any port not subject to the Government of the East India Company, or from Aden, or any port in the Straits of Malacca, the Tenasserim Provinces, or the Province of Arracan, into any place in the territories subordinate to the Government of the Presidency of Bombay according to the rates specified in Schedule A. annexed to this Act, and with the exceptions specified therein; and the said Schedule shall be taken to be a part of this Act.

**XIX.** Duties of customs shall be levied upon goods the produce or manufacture of India exported by sea to any port situated beyond the territories subject to the Government of the East India Company, or to Aden, or to any port in the Straits of Malacca, the Tenasserim Provinces or the Province of Arracan, from any port of the Bombay Presidency, according to the rates specified in Schedule B. annexed to this Act, with the exceptions therein specified; and the said Schedule with the notes attached thereto, shall be taken to be a part of this Act: Provided always, that the ships of any European nation having Firman privileges in the port of Surat, shall not be subject to further duties of import or export than may be prescribed by their Firmans respectively, any thing in the Schedules or in this Act notwithstanding.

**XX.** Spirits exported from any port subject to the Government of the East India Company, and imported at any other port subordinate to the Government of Bombay shall be liable on importation to the same rate of duty as may be fixed on spirit of country manufacture by Schedule A. annexed to this Act, or by any future enactment: Provided always, that if the said spirit be accompanied by a document signed by competent authority, certifying that a duty, whether of customs or otherwise, has been paid on the said spirit to the East India Company, credit shall be allowed for the sum so paid in settling the customs at the port of import; and if such

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such sum equal or exceed the full amount of customs leviable on spirits of country manufacture under Schedule A. aforesaid, or any future enactment, then the spirit on which such duty has been paid shall be admitted to free entry.

**XXI.** The Governor in Council may direct that an anchorage toll shall be levied at any port or ports within the Bombay Presidency on all vessels arriving from any other port or ports which may be specified by the said Governor in Council, and such anchorage toll shall be levied at such port or ports on every such vessel on each arrival of such vessel at the rates specified in Schedule C. annexed to this Act: and the said Schedule shall be taken to be part of this Act.

**XXII.** No goods entered in either of the Schedules of this Act, as liable to duty, shall be exempted from the payment of such duty or of any part thereof, except under special order from the Governor of Bombay in Council, and the Collector of Customs shall detain all goods subject to duty under this Act until such duty shall have been duly paid according to the rules herein provided: Provided always, that the Collector of Customs, or other officer in charge of a custom house, may at his discretion pass free of duty any passenger's personal baggage in actual use, and if any person shall apply to have goods passed as such baggage, the Collector, acting under the orders of Government, shall determine whether they be passenger's personal baggage in actual use, or goods subject to duty under the provisions of this Act.

**XXIII.** On application by the exporter of any salt that has paid the excise duty, as established by law, a certificate shall be granted by the Collector of Customs at the place of export, under authority of which certificate the quantity of salt specified therein may be landed at any other port of the said Presidency of Bombay, and passed from such port into

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the interior of the country without the levy of any further duty either of excise or of customs.

**XXIV.** The Governor of Bombay in Council, from time to time by notice in the official Gazette of that Presidency, may fix a value for any article, or number of articles, liable to duty upon their value, and the value so fixed for such articles shall, till altered by a similar notice, be taken to be the value of such articles for the purpose of levying duty on the same.

**XXV.** When goods liable to duty for which a value has been fixed by such notice or for which a fixed duty has been declared by the Schedules annexed to this Act, are brought to any custom house in the Bombay Presidency in a damaged state, and such damage is declared previous to the assessment of customs on such goods, the Collector of Customs may make an abatement of customs in proportion to the damage received; and, in estimating such damage, he shall be guided by such rules as the Governor of Bombay in Council may from time to time determine and notify; but if the value of the goods be not deteriorated more than one-fifth part thereof no abatement of customs shall be allowed.

**XXVI.** When goods liable to duty, for which a value has not been fixed by such a notice as is above directed, or for which a fixed duty has not been declared by the Schedules annexed to this Act, are brought to any custom house in the Presidency of Bombay, for the purpose of being passed for importation or exportation, the duty leviable on such goods shall be levied according to the market value of such goods, at the place and time of importation or exportation as the case may be.

**XXVII.** No goods shall be allowed to be passed through the custom house until a written application, according to a form to be prescribed by the

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the Collector of Customs, shall have been made by the owner, consignee, exporter, importer, or the agent for any of such persons respectively, for permission to pass such goods through the custom house; and such application shall contain a true description of such goods, with the marks, numbers and description of the packages containing the same, and a declaration of their value, and shall set forth the name of the ship in which the goods have been imported, or are to be exported, the name of the master of the said ship, the colors under which the said ship sails, and the country in which the goods were produced. If any goods shall be passed through the custom house, or attempted to be removed therefrom without such an application in writing as is above described, they shall be liable to be seized and confiscated.

**XXVIII.** The market value for assessment of duties on the goods indicated in Section XXVI. shall be that declared in the application to be made, as aforesaid: Provided always, that the value so declared be admitted by the Collector or by the officer appointed to appraise goods at the custom house; but if the value of the whole or any part of the goods entered in the declaration aforesaid shall seem to the Collector to be understated in such declaration, he shall have power to take the goods, or any part thereof as purchased for the Government at the price so declared; and whenever the Collector of Customs shall so take goods for the Government, payment thereof shall be made to the consignee, importer or exporter within one month from the date of the declaration; if the goods be imported goods, the amount of import duty leviable thereon shall be first deducted, and if the goods be intended for exportation, the entire value as declared, shall be paid without deduction on account of customs duty: and the Collector shall sell the goods so taken on account of Government; and, if they shall realize on sale a sum exceeding all charges incurred on them by Government, a proportion not more than one-half of the excess shall, at the discretion of the Collector, be payable to the officer

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officer who reported the undervaluation of the goods, who shall in like manner be liable to pay one-half of the net loss that may accrue on the sale of the said goods.

**XXIX.** And whereas under Section **XXIV.** of this Act, it may be found expedient to fix the dutiable value of certain goods at the rates shewn by their invoice, when it shall appear to the officer of customs appointed to appraise goods at the custom house that any goods are undervalued in an invoice presented for the purpose of assessing customs, he shall report the same to the Collector of Customs, who shall call upon the importer or exporter to declare the market value of the goods in question, and if the value so declared shall appear to the Collector insufficient, he may take such goods for Government at the value so declared, and dispose of them as empowered by Section **XXVIII.** of this Act.

**XXX.** Upon any goods liable to duty that may be passed through the custom house for shipment, the application for which shall be presented after port-clearance shall have been taken out, double of the prescribed duty shall, in all cases, be levied, and if the goods (always excepting treasure and opium) be free, or have already paid import duty, or have been imported free under certificate, five per cent. upon the market value shall be levied thereon, or if the same be imported goods entitled to drawback, the drawback shall be forfeited, but no separate duty shall be levied on drawback goods.

**XXXI.** When a vessel having cleared out for any port, shall put back from stress of weather, or it shall from any damage, or from other cause be necessary that the cargo of a vessel that has cleared out shall be unshipped or relanded, a customs officer shall be sent to watch the vessel, and take charge of the cargo during such relanding or removal from on board; and the goods on board such vessel shall not be allowed to be transhipped

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transhipped or re-exported free of duty by reason of the previous settlement of duty at the time of first export unless the goods shall be lodged in such place as shall be allowed by the Collector of Customs, and shall remain while on land or while on board of any other vessel under special charge of the officers of customs until the time of re-export, and all charges attending such custody shall be borne by the exporter: Provided however, that in all cases of return to port after port-clearance on account of damage or for stress of weather, the owner or master may enter the vessel and land the cargo under the rules for the importation of goods, and the export duty shall in that case be refunded, and the amount paid in drawback be reclaimed ; and if goods on account of which drawback has been paid, be not found on board the vessel, the master shall be liable to a fine not exceeding the entire value thereof, unless he accounts for them to the satisfaction of the Collector of Customs.

**XXXII.** When goods shall be re-landed before the lading of any vessel is complete, and before port-clearance has been granted, the duty levied upon such goods shall be returned to the exporter, but no refund shall be made of duty paid on the export of any goods after port-clearance shall have been granted for the vessel on which the goods are exported, unless the vessel shall have put back for stress of weather or for damage, and the goods shall have been re-landed under the rule contained in Section **XXXI.**

**XXXIII.** Goods exported in the same vessel on which they were imported, if manifested for re-export, shall not be subject to import or export duty; and, if any goods brought to any port in any vessel be transhipped in such port, they shall in all cases be subject to the same duty as if they had been landed and passed through the custom house for re-exportation in the vessel into which they may be transhipped.

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**XXXIV.** No duty of customs which shall have been charged and paid, and of which repayment is claimed in consequence of the same having been charged or paid under an erroneous construction of law or from other error, shall be returned unless such claim is made within two years from the date of such payment.

**XXXV.** With the sanction of the Governor of Bombay in Council, seven-eighths of the customs levied on imports may be repaid as drawback upon the re-export by sea of goods which can be identified to the satisfaction of the Collector of Customs as having previously paid customs duties on import at the same port: Provided that such re-export be made within two years of the date of import by the custom house register, and the drawback be claimed at the time of re-export; but no drawback shall be claimable under this Act on any re-export of opium or salt, or of goods destined for any port in the territories subject to the Government of the East India Company, except Aden, and ports in the Straits of Malacca, the Tenasserim Provinces, and the Province of Arracan.

**XXXVI.** Every person who shall counterfeit or falsify, or wilfully use when counterfeited or falsified, any invoice, entry, cocket, or other document for the purpose of clearing, or having customs duties assessed on, any goods, shall be liable to a fine not exceeding one thousand rupees.

**XXXVII.** If any certificate, manifest, bill, or other custom house documents be lost by any person to whom they may have been issued by the custom house authorities, the Collector of Customs, on being satisfied that no fraud has been committed, or was intended, may grant a duplicate of such lost document upon payment of a fee of not less than one rupee, nor exceeding ten rupees; and further the Collector may authorize any amendment to be made in any import or export application; but, if such amendment be required after such application is entered and recorded in the

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the custom house books, then upon payment of a like fee for any document so entered.

**XXXVIII.** The master of every vessel on arrival at the port of Bombay shall, on being required by any customs officer who may proceed on board, enter in a printed form with which such officer will be furnished, the information therein required, which shall include the vessel's name and the country to which she belongs, the name of the captain or sailing master, the port from whence she began her voyage, and the date of departure therefrom, also the names of any ports at which she touched during her voyage, and of any vessels she may have spoken, and a list of her passengers; and any master of any vessel who shall refuse to enter such information, or delay to do so for more than two hours after delivery to him of the printed form aforesaid, or wilfully make any false statement in filling up the same, shall be liable to a fine not exceeding five hundred rupees.

**XXXIX.** On the arrival of any ship, boat, or other vessel at the port of Bombay, the master or commander thereof shall, within twelve hours after he shall have anchored, report to the Collector of Customs the quantity of gunpowder which he has on board, and all such gunpowder in excess of five seers, unless a greater quantity shall be authorized by Government to be retained on board any vessel, shall be delivered by him in charge of such person as shall be named in an order to be furnished to him for such purpose by a proper officer of Government, and on his failure to make such report, or deliver such excess, he shall be liable to a fine not exceeding five hundred rupees.

**XL.** When any vessel shall arrive in any port of the Presidency of Bombay, the master shall deliver a certificate of registry of such vessel if registered as a British vessel under Act of Parliament, or if registered

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under Acts of the Government of India No. X. of 1841 or No. XI. of 1850, a certificate of registry as required by such Acts, or if not registered under either of the said Acts then the pass or sea letter under which the vessel may have sailed, to the first person duly empowered to receive such certificate of registry or pass, who comes on board; and if no such person comes on board before the anchor is dropped, then such certificate or pass shall be forwarded to the Collector of Customs, or other principal officer of customs on the spot, by the first boat that leaves the vessel after dropping anchor; and, if the port be up a river, or at a distance from the land first made, no inward-bound vessel, except such country craft as are described in Section LIX. of this Act, shall pass beyond such place in such river or adjoining such port as shall be from time to time appointed by the Governor of Bombay in Council, by an order published in the Government Gazette of the Presidency, until the master shall have forwarded, in such manner as may be so ordered by the said Governor, a certificate of registry or pass; and the master of such vessel arriving as aforesaid, shall deliver in duplicate, at the same time and in like manner as he is hereinbefore directed to deliver a certificate of the registry of the vessel, a true manifest of the cargo on board; and if there be no cargo, then a blank manifest made out according to such form as may be prescribed by the Collector of Customs; and the wilful breach or neglect of any of the provisions of this Section shall subject the master to a fine not exceeding one thousand rupees.

**XLI.** If the manifest so delivered by the master shall not contain a full and true specification of all the goods imported in the vessel, the said master shall be liable to a fine not exceeding rupees one thousand, and any goods or packages in excess of the manifest so delivered, or differing in quality or kind, or in marks and numbers, from the specification contained therein, that are found on board, or are found after being fraudulently removed from the vessel, shall be liable to be seized by any officer

officer of customs and confiscated, or to be charged with such increased duties not exceeding the value of such goods or packages as may be determined by the Collector of Customs.

**XLII.** If any inward-bound vessel shall remain outside or below the place that may be fixed by the Governor in Council for the first delivery of manifests, the master shall deliver a manifest as hereinbefore prescribed, to the first person duly empowered to receive such manifest who comes on board, and the master of any vessel entering a port for which there is a custom house established, and being at anchor therein for twenty-four hours, who shall refuse or neglect to deliver the said manifest within that time in the manner above prescribed, shall, for such refusal or neglect, be liable to a fine not exceeding rupees one thousand; and no entry or port-clearance shall be given for such vessel until the fine is paid.

**XLIII.** No vessel shall be entitled to inward entry, or be allowed to break bulk, until a manifest in duplicate, as required by this Act, shall have been received by the Collector of Customs, nor until orders have been given by the said Collector for the discharge of the cargo; and the said Collector may further refuse to give such order, if he shall see fit, until any port-clearance, cocket, or other papers known to be granted at the places from which the vessel is stated to have come, shall likewise be delivered to him.

**XLIV.** No vessel shall be entitled to entry outwards, or to take on board any part of her export cargo, until a written application for such purpose shall have been made by the master of such vessel to the Collector of Customs, nor until an order shall have been given by the said Collector for shipping export cargo, and in the written application to be made as aforesaid, the name, tonnage, and nation of the vessel shall be described, as also the name of the master, and the name or names of the place or places for which she is bound.

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**XLV.** If in the application prescribed by the preceding Section of this Act, a vessel be described to be bound to any port or ports within the territories of the East India Company, then the Collector of Customs, or, in his absence, his Deputy or Assistant, may refuse a port-clearance to such vessel until the master or commander thereof shall have given a joint bond together with the owner or the consignee of the said vessel, or some other party approved by the Collector of Customs, or, in his absence, by his Deputy or Assistant, by which such parties or one of them shall be bound to produce to the Collector of Customs a certificate from the officer in charge of the port to which such vessel is said to be bound, of her arrival at such port within a fair and reasonable time to be prescribed by the Collector in each case, and in failure of producing such certificate, or showing sufficient reason for its non-production, the parties to the bond aforesaid shall be jointly and severally bound to pay a penal sum equal to double the amount of customs which would have been chargeable on the export cargo of the said vessel had she been declared bound to a port beyond the territories of the East India Company.

**XLVI.** No goods shall be allowed to leave any vessel or to be put on board thereof, until entry of the vessel shall have been duly made in the custom house of the port, and until order shall have been given for discharge or shipment of the cargo thereof as above provided, and it shall be the duty of every customs officer to seize as contraband any goods which have been removed from or put on board of any vessel in contravention of the above provision ; and the master of any vessel who shall permit or neglect to take measures for preventing the landing or shipping of any goods in contravention of the above provisions, shall be liable to a fine not exceeding five hundred rupees.

**XLVII.** After entry of the vessel at the custom house in due form as above prescribed, such part of the cargo as may not be declared for re-exportation

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re-exportation in the same vessel, shall be landed, and export cargo shall be laden on board according to the forms and rules that may be prescribed for the port by this Act, or by order of the Governor of Bombay in Council; and if an attempt be made to land or put on board goods or merchandise in contravention of the forms and rules so prescribed, the goods shall be liable to seizure and confiscation.

**XLVIII.** If goods entered in the manifest of a vessel shall not be found on board that vessel, or if the quantity found be short, and the deficiency be not duly accounted for, or if goods sent out of the vessel be not landed at the custom house, or at such other place as the Collector of Customs shall have prescribed, the master shall be liable to a penalty not exceeding five hundred rupees for every missing or deficient package of unknown value, and to a penalty equal to twice the amount of duty chargeable on the goods deficient and unaccounted for, if the duty can be ascertained, and if they be not subject to duty, then to a penalty equal to five per cent. on the value of such deficient goods; provided always, that nothing herein contained shall be construed to prevent the Collector of Customs from permitting, at his discretion, the master of any vessel to amend obvious and unintentional errors, or to supply omissions from accident or inadvertence, by furnishing an amended or supplemental manifest.

**XLIX.** Every master of a vessel who shall remove from such vessel or put on board thereof any goods, or cause or suffer any goods to be removed from thence or put on board thereof between sunset and sunrise, or on any day when the custom house is closed for business, without leave in writing obtained from the Collector of Customs, shall be liable to a fine not exceeding five hundred rupees.

**L.** When goods shall be sent from on board of any vessel for the purpose of being landed and passed for importation, there shall be sent with

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with each boat load, or other separate despatch, a boat note specifying the number of packages and the marks and numbers, or other description thereof, and such boat note shall be signed by an officer of the vessel; and if the vessel have a customs officer on board, the boat note must be signed by such officer as well as by an officer of the vessel; and if any imported goods be found in a boat proceeding to land from such a vessel without a boat note, as above provided, or if being accompanied by such boat note they be found out of the proper track between the ship and the proper place of landing, the boat containing such goods may be detained by any officer of customs duly authorized by the Collector; and unless the cause of deviation be explained to the satisfaction of the Collector of Customs, the goods shall be liable to seizure and confiscation.

LI. Except in special cases sanctioned by the Collector of Customs, twenty days, exclusive of Sundays and holidays, shall be allowed for the discharge of the import cargo of vessels not exceeding six hundred tons' burthen, and thirty days for vessels exceeding that burthen; and the said periods shall be calculated from the date on which the vessel was admitted to entry inward; and if any goods remain on board after the periods above fixed, the Collector may order the same to be landed and warehoused, for the security of the duties chargeable thereon, and of any freight and primeage and other demands that may be due thereon, giving his receipt to the master for the goods so warehoused; but the Collector or other officer in charge of the custom house, with the consent of the master of the vessel, may cause any packages to be brought on shore and to be deposited in the Government warehouses, although the periods above fixed have not expired.

LII. No vessel shall depart from any port of the Presidency of Bombay without a port-clearance being granted by the Collector of Customs or other proper officer duly authorized by the Governor of Bombay in

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in Council to grant the same, and application shall be made for such port-clearance at least twenty-four hours before the intended departure of the vessel; and no such port-clearance shall be granted to any square-rigged vessel sailing from the port of Bombay until the following documents shall have been produced to the Collector of Customs or other officer:—

1st,—The certificate of registry of the vessel if registered a British vessel under Act of Parliament, or if registered under the Acts of the Government of India No. X. of 1841, or XI. of 1850, a certificate of registry as required by such Acts, or if not registered under either of the aforesaid Acts, then the pass or sea letter under which the vessel shall be sailing.

2nd,—A certificate from the Senior Magistrate of Police, that there is no objection in his department to a port-clearance being granted to the vessel.

3rd,—A like certificate from the Indian Naval Store-keeper of all demands as regards his office on the vessel having been satisfied.

4th,—A like certificate from the Marine Paymaster.

5th,—A like certificate from the Registrar of Shipping.

6th,—A list of the crew and (if any) of the passengers; but if none, then a declaration of the master to such effect.

Provided always, that it shall be lawful for the Governor of Bombay in Council in any cases of necessity or special emergency, to authorize the granting of such port-clearance without the production of any one or more of the documents hereinbefore enumerated, and on such terms and conditions as he may think fit.

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**LIII.** The master of every vessel leaving any port in the Bombay Presidency shall, at the time of applying as above prescribed for a port-clearance, deliver to the Collector of Customs or other principal customs officer of such port in duplicate a true manifest of the cargo on board, and if there be no cargo, then a blank manifest made out according to such form as may be prescribed by the Collector of Customs ; and if such manifest so delivered shall not contain a full and true specification of all goods to be exported in the vessel, the said master shall be liable to a fine not exceeding one thousand rupees ; and any goods or packages found on board in excess of the manifest so delivered, or differing in quantity, or in kind, or in marks, or in numbers from the specification contained therein, shall be liable to be seized by any customs officer and confiscated, or charged with such increased duties not exceeding the value of such goods or packages as may be determined by the Collector of Customs.

**LIV.** If any goods shall be taken on board of any vessel after port-clearance, it shall be incumbent on the master of such vessel to amend the export manifest of such vessel in presence of the Collector of Customs, unless a special permission be granted by that officer ; and the master of any vessel who may contravene the provisions of this Section, shall be liable to a fine not exceeding one thousand rupees.

**LV.** If any vessel shall depart or attempt to depart without a port-clearance, as directed by this Act, the master shall be liable to a penalty not exceeding one thousand rupees, which may be recovered from the master or any owner of the vessel.

**LVI.** No transhipment shall be made of any goods except under special order in writing from the Collector of Customs of the port ; and an officer of customs shall in all cases be deputed to superintend the removal of the goods from vessel to vessel ; and if any goods are transhipped or any

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any attempt be made to tranship any goods without a special order as aforesaid, such goods shall be liable to confiscation.

**LVII.** The Governor of Bombay in Council may declare by public notice, in the official Gazette of that Presidency, what places within the same shall be ports for the landing and shipment of merchandise, and any goods landed or attempted to be landed at any other port than such as shall be so declared, shall be seized and confiscated.

**LVIII.** There shall be in every port of the Bombay Presidency one or more places for the landing and shipment of goods, and goods shall not be landed or embarked at any other place without the special order in writing of the Collector of Customs for the port; and, if any goods be landed or embarked, or an attempt be made to land or embark any goods at any other than the said authorized places without such order, they shall be seized and confiscated.

**LIX.** The Governor of Bombay in Council may establish rules for the anchorage of the coasting and country craft of the British territories, for the delivery of manifests of the cargo of such vessels, and for the landing of goods therefrom, and shipping and transhipping of goods therein; and whoever, being in charge of any such craft or being owner of the vessel or of any part of her cargo, shall knowingly contravene any such rule, shall be liable to a fine not exceeding one hundred rupees for each offence.

**LX.** Goods which shall be brought to be passed through the custom house, either for importation or exportation by sea, shall be liable to confiscation if the packages in which the same may be contained shall be found not to correspond with the description of them given in the application for passing them through the custom house, or if the contents thereof be found not to have been correctly described in regard to sort, quality, or quantity,

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quantity, or if in or among the packages any goods not stated in the application be found concealed in or mixed up with the specified goods.

**LXI.** Any exported goods which shall be found in the harbour, or any imported goods which shall be found on the wharf, of any port under the Bombay Presidency, shall be liable to confiscation, unless the owner, consignee, or other parties interested in the said goods, shall prove in the case of exported goods that they have been duly passed through the custom house, or, in the case of imported goods, that they have been landed according to the rules prescribed by this Act, preparatory to their being so passed.

**LXII.** The Governor of Bombay in Council, by an order in Council, may fix and from time to time alter rates of rent to be charged on goods placed in the Government warehouses, or which may be, beyond such period as may be determined by the Governor in Council, lying on the custom house wharf or other authorized landing places.

**LXIII.** The unshipping, carrying, shipping and landing of all goods, and the bringing of the same to the proper place for examination or for weighment, and the putting the same into and out of the scales, shall be performed by or at the expense of the importer or exporter of such goods.

**LXIV.** The Collector of Customs, whenever he shall see fit, may require that goods brought by sea, and stowed in bulk, shall be weighed or measured on board ship before being sent to land, and may levy duty according to the result of such weighing or measurement.

**LXV.** The Governor of Bombay in Council, from time to time, may issue such rules as appear to him expedient for landing or shipping passengers' baggage, and passing the same through the custom house, and also for landing,

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landing, shipping and clearing parcels forwarded by Her Majesty's or the East India Company's mails, or by other regular packets and passenger vessels; and when any baggage or parcels are made over to the custom house officer, for the purpose of being landed, a fee of such amount as the Governor of Bombay in Council may from time to time direct shall be chargeable thereon, as compensation for the expense and trouble incurred in landing and depositing the same in the custom house.

**LXVI.** If any person, after goods have been landed and before they have been passed through the custom house, removes or attempts to remove them with the intention of defrauding the revenue, the goods shall be liable to confiscation, unless it shall be proved, to the satisfaction of the Collector of Customs, that the removal was not sanctioned by the owner or by any person having an interest in or power over the goods; on such proof, the goods shall not be liable to confiscation, but the party or parties so removing or attempting to remove the goods, shall be liable to a fine not exceeding the value of the said goods.

**LXVII.** In case of any goods landed from any vessel not being claimed and cleared from the custom house within three months from the date of entry of the ship in which such goods were imported, the Collector, after publication of a description of the same in the Government Gazette, may sell the same on account of the duties and other charges due thereon; and the balance remaining after deducting the said duties and charges shall be held in deposit, and paid to the owner on application; provided that such application be made within two years of the sale of the goods, or good reason be shewn why such application has not been so made.

**LXVIII.** If the Governor of Bombay in Council shall see fit for the security of customs at any port to maintain special establishments of boats for landing and shipping merchandise, or to license and register

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the cargo boats plying in any ports, then, after due notification thereof, no person shall convey goods to or from any vessel in such port otherwise than in the boats so authorized and prescribed, except under special permit from the Collector of Customs at the port: and any goods found on board of other boats than those so authorized for the port, shall be liable to be seized by any officer of customs and shall be liable to confiscation; and the tindal or owner of any such boat shall be liable to a fine not exceeding fifty rupees for each offence.

**LXIX.** When the Governor of Bombay in Council shall see fit to maintain at any port an establishment of officers to be sent on board of vessels to watch their unloading and lading, then, after due notification shall have been given that such establishment is so maintained at any port, the Collector of Customs at that port shall have power at his discretion to send one or more officers of such establishment to remain on board of any vessel in such port by night and by day until the vessel shall leave the port, or it shall be otherwise ordered by the Collector.

**LXX.** Any master of such vessel at such port, who shall refuse to receive an officer so deputed with one servant on board, or who shall not afford such officer and servant suitable shelter and accommodation while on board, and likewise furnish them with a due allowance of fresh water if necessary, and with the means of cooking on board, shall be liable to a fine not exceeding one hundred rupees for each day during which such officer and servant continue on board, and shall not be received and provided with suitable shelter and accommodation.

**LXXI.** If application be made to the Collector for an extension of the period allowed in Section LI. of this Act for the discharge of the import cargo of any vessel on board of which a custom house officer shall have been placed, and the Collector may see fit to grant any such extension,

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sion, the master of such vessel shall be charged with the wages of such officer and other expenses, for such period as such officer may be detained on board beyond the period fixed by Section LI. of this Act.

**LXXII.** If any officer shall be placed on board for the purpose of superintending the lading of any vessel, and the unlading and lading of such vessel be continuous, then a period of twenty days shall be allowed for taking in export cargo; and the said period shall be calculated from the termination of the period allowed for discharging cargo by Section LI. of this Act; and the master thereof shall be charged for the wages and expenses of the customs officer on board after the expiration of such additional period. But, if the unlading and lading of any vessel be not continuous, and a customs officer is appointed to superintend the lading thereof, then the period of thirty days shall be allowed from the date of entry of the vessel outwards, and the master of the vessel shall be charged for the wages and expenses of the customs officer on board after the expiration of that period.

**LXXIII.** When the unlading and lading of any vessel is not continuous, the customs officer shall be removed from on board such vessel so soon as the import cargo has been fully discharged, and shall be replaced on board such vessel on the entry outwards of such vessel; and the master of any such vessel who, before a customs officer has again been placed in such vessel, shall put on board or cause or suffer to be put on board of such vessel, any goods whatever, shall be punished with a fine not exceeding one thousand rupees, and the goods shall be liable to be re-landed for examination at the expense of the shippers, upon requisition to that effect from the Collector of Customs.

**LXXIV.** Whenever a Collector of Customs shall see cause to direct that any vessel shall be searched, he shall issue his warrant or written order

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order for such search, addressed to any officer under his authority ; and upon production of such order, the officer bearing it may require any cabins, lockers, or bulk-heads to be opened in his presence, and if they be not opened upon his requisition, may break the same open ; and any goods found concealed, and not duly accounted for to the satisfaction of the Collector of Customs, shall be liable to seizure and confiscation ; and any master or person in charge of a vessel who shall resist such officer, or refuse to allow the vessel to be searched when so ordered by the Collector of Customs, shall be liable for every such offence to a fine not exceeding one thousand rupees.

**LXXV.** If any officer of customs shall see cause to search any person on board, or who shall have landed from any vessel, or any person passing or having passed through the custom house or any custom station, such person, before being searched, may require such officer to take him before the Collector or a Justice of the Peace, who shall determine whether there is reasonable ground to suppose that such person has any uncus- tomed or prohibited goods on his person ; and if such Collector or Justice shall think there is reasonable ground for such supposition, then he shall direct such person to be searched in such manner as he shall think fit, otherwise he shall forthwith discharge such person ; but no female shall be searched otherwise than privately, or by any other person than a female duly authorized by such Collector or Justice ; and any officer who shall not take such person with reasonable despatch before such Collector or Justice when so required, or who shall require any person to be searched without having reasonable ground to suppose that he has uncus- tomed or prohibited goods on his person, or who shall cause any female to be unlawfully searched, shall be liable to forfeit and pay a sum not exceeding one hundred rupees ; and if any person suspected of having any uncus- tomed or prohibited goods on his person, or in his possession, shall, on being questioned by any officer of customs in regard thereto, deny the same, and

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and any such goods shall after such denial be found on his person, or in his possession, such goods shall be seized and confiscated, and such person shall forfeit double the value of such goods in addition to the goods confiscated.

**LXXVI.** Any officer of customs acting under the warrant of any Commissioner or Collector of Customs, may take a constable and a sufficient number of peons, (who shall, on the requisitions of the Collector for such purpose, be furnished by the superintendent of police in Bombay or the proper police authority in any zillah,) and between sunrise and sunset may enter into and search any house, shop, cellar, warehouse, room, or other place, and in case of resistance may break open doors, chests, trunks and other packages, and may seize and bring thence any uncustomed or prohibited goods, and put and secure the same in the custom house warehouse in the port next to the place whence such goods shall be so taken as aforesaid; and such goods shall be liable to confiscation; provided always, that no Commissioner or Collector of Customs shall issue any such search-warrant except upon information on oath or solemn declaration formally laid before him.

**LXXVII.** No cargo-boat laden with goods intended for exportation by sea shall make fast to, or lie alongside of any vessel on board of which there shall be a customs officer stationed, unless there shall be on board the boat, or have been received by the said customs officer, a custom house permit or order for the shipment of the goods, and the goods on board of any boat that may so be alongside, or be made fast to a vessel, and not covered by a custom house pass accompanying them, or previously received by the customs officers on board the said vessel, shall be liable to seizure and confiscation.

**LXXVIII.** All fines, for the recovery of which no special provision is herein-before made, may be recovered, on conviction of the offender, before a magistrate or other person competent to adjudicate on the offences, and payment thereof may be enforced under Act II. of 1839.

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## SCHEDULE A.

*Rates of duty to be charged on goods imported by sea into any port of the Presidency of Bombay from any port or place not subject to the Government of the East India Company, or from Aden, or from any port or place in the Straits of Malacca, the Tenasserim Provinces, and the Province of Arracan.*

Nos.	ENUMERATION OF GOODS.	The produce or manufacture of	
		The United Kingdom or any British possession.	Any other Place.
		Rate of duty on the value.	Rate of duty on the value.
1.	Bullion and Coin, .....	Free.	
2.	Precious Stones and Pearls, .....	Ditto.	
3.	Grain and Pulse, .....	Ditto.	
4.	Horses and other living Animals, .....	Ditto.	
5.	Ice, .....	Ditto.	
6.	Coal Coke Bricks, Chalk and Stones, (marbles and wrought stones excepted,) .....	Ditto.	
7.	Cotton Wool, 9 annas per Indian Maund,		
8.	All Machinery imported into India for improvement of the communications and for development of the commercial resources of the country, .....	Ditto.	
9.	Opium covered by a Pass, .....	Ditto.	
10.	Opium not covered by a Pass, .....	24 rupees per Seer of 80 Tolahs.	
11.	Books, .....	Free, ...	3 per Cent.
12.	Marine Stores, .....	5 per Cent.	10 per Cent.
13.	Metals, wrought or unwrought, .....	5 per Cent.	10 per Cent.
14.	Woollens, .....	5 per Cent.	10 per Cent.
15.	Cotton and Silk Piece Goods, and all manufactures of Cotton and Silk, (except Thread, Twist and Yarn), or of Cotton or Silk mixed with any other materials, .....	5 per Cent.	10 per Cent.
16.	Cotton Thread, Twist and Yarn, .....	3½ per Cent.	10 per Cent.
17.	Porter,		

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17. Porter, Ale, Beer, Cyder, and other similar fermented Liquors,.....	5 per Cent.
18. Salt not covered by a Pass, .....	12 annas per Indian Maund.
19. Alum, .....	10 per Cent.
20. Camphor, .....	10 ditto.
21. Cassia, .....	10 ditto.
22. Cloves, .....	10 ditto.
23. Coffee, .....	7½ ditto.
24. Coral, .....	10 ditto.
25. Nutmegs and Mace, .....	10 ditto.
26. Pepper, .....	10 ditto.
27. Ratans, .....	7½ ditto.
28. Tea, .....	10 ditto.
29. Vermillion, .....	10 ditto.
30. Wines and Liqueurs, .....	1 Rupee per Gallon.
31. Spirits, of European and Foreign manufacture at or below London proof, .....	1 Rupee 8 annas per Gallon.
32. Spirits, of Country manufacture including Ceylon Arrack, .....	9 annas per Gallon.

NOTE.—The duty on all Spirits shall be ratably increased as the strength exceeds London proof.

33. Tobacco and all preparations thereof when the market value does not exceed 30 Rupees per Indian Maund, .....	1 Rupee 8 annas per Indian Maund.
34. Ditto ditto ditto, when the market value exceeds Rs. 30 per Indian Maund, .....	5 per Cent. on the value.
35. Ditto ditto, on removal from Bond for consumption in the Island of Bombay, .....	7½ Rupees per Indian Maund.
36. All articles not included in the above enumeration, .....	5 per Cent. on the value.

## SCHEDEULE B.

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## SCHEDULE B.

*Rates of Duty to be charged on goods exported by sea from any port or place in the Presidency of Bombay to any port or place not subject to the Government of the East India Company, or to Aden, or any port or place in the Straits of Malacca, the Tenasserim Provinces, and the Province of Arracan.*

Nos.	ENUMERATION OF GOODS.	RATE OF DUTY.
1.	Bullion and Coin, ... .....	Free.
2.	Precious Stones and Pearls, .....	Ditto.
3.	Books, Maps and Drawings, printed in India, .....	Ditto.
4.	Horses and living Animals, .....	Ditto.
5.	Opium covered by a Pass, .....	Ditto.
6.	Opium not covered by a Pass, ... .....	Prohibited.
7.	Cotton Wool, .....	Free.
8.	Sugar and Rum, .....	Ditto.
9.	Salt having paid Excise duty as prescribed by Law, .....	Ditto.
10.	Salt not covered by a Pass or Certificate of having paid Excise duty or Import Customs duty, .....	Prohibited. {
11.	Spirits, .....	9 annas per Gallon. {
12.	Tobacco and all preparations thereof, .....	1 Rupee 8 annas per Indian Maund of 80 Tolahs to the Seer. {
13.	All Articles produced or manufactured in the territories governed by the East India Company, and not enumerated or named above, .....	3 per Cent. on the value {
14.	All Articles produced or manufactured in any foreign territory uncovered by a certificate of having paid import duty, .....	3 per Cent. on the value. {

## SCHEDULE C.

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## SCHEDULE C.

### *Anchorage Tolls on Country Craft.*

Above	{ Candies.		{ Indian Maunds.		{ Candies.		{ Indian Maunds.		Rupees,	Annas,	Pies,
	10		100	not exceeding	20		200				
”	20	.....			40		...		1	8	0
”	40	.....			60		...		2	0	0
”	60	.....			80		...		2	8	0
”	80	.....			100		...		3	0	0
”	100	.....			150		...		3	8	0
”	150	.....			200		...		4	0	0
”	200	.....			250		...		4	8	0
”	250	.....			300		..		5	0	0
”	300	.....			350		...		5	8	0
”	350	.....			400		...		6	0	0



## ACT NO. II. OF 1852.

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***Passed by the Hon'ble the President of the Council of India  
in Council, on the 2nd January 1852, with the assent  
of the Most Noble the Governor General of India.***

*An Act for the collection of Land Customs on certain Foreign  
Frontiers of the Presidency of Bombay.*

WHEREAS it is expedient to provide for the collection of Land Customs on certain Foreign Frontiers, It is enacted as follows:

I. Duties of Customs shall be levied on Goods passing by land into or out of Foreign European Settlements, situated on the line of Coast within the limits of the Presidency of Bombay, at the rates prescribed in the Schedules of Act I. of 1852, at the ports of that Presidency.

II. The Governor of the Presidency of Bombay in Council may declare, by notice to be published in the official Gazette of that Presidency, that the Territory of any Native Chief, not subject to the jurisdiction of the Courts and Civil Authorities of that Presidency, shall be deemed to be Foreign Territory, and may declare Goods passing into or out of such Territory, liable either to the Duty fixed by the Schedules of Act I. of 1852 for Goods imported or exported at the ports of that

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Presidency, or to double the said Duties as the Governor of Bombay in Council may think fit.

III. For the levy of Duties of Customs as above provided on Goods exported by land to, or imported by land from, such Foreign Territories, Customs Stations may be established at such places as may be determined by the said Governor of Bombay in Council; and every Officer at every such Station shall have power to detain Goods passing into or out of any such Foreign Territory, and to examine and ascertain the quantities and kinds thereof; and such Goods shall not be allowed to pass across the Frontier line out of or into the Territory of the East India Company, until the owner or person in charge thereof shall produce and deliver a certificate shewing that the Customs Duty leviable thereupon has been paid.

IV. Any Officer of Sea Customs may receive money on account of Customs, and grant certificates of the payment thereof; and any such certificate, being delivered to any Station Officer, shall entitle the Goods therein mentioned to cross the Frontier into or out of the East India Company's Territories, provided that the Goods correspond with the specification thereof contained in such certificates, and that the certificates shew the entire amount of Duty leviable on those Goods to have been duly paid; and if upon examination the Goods brought to any Station be found not to correspond with the specification entered in the certificate presented with the same, the difference shall be noted on the face of the certificate; and if the payment of Duty certified therein shall not cover the entire amount of Duty leviable on the Goods, as ascertained at such examination, the Goods shall be detained until further certificate for the difference shall be produced.

V. The said Governor of Bombay in Council shall appoint proper Officers to receive Customs Duties on Goods crossing the Land Frontier of

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of the said Foreign Territories; and the Officers so appointed shall, on the receipt of money tendered as Customs Duty, be bound to give any merchant or other person applying for the same a certificate of payment, and to enter therein the specification of Goods, with the values and description thereof, according to the statement furnished by the person so applying; provided only, that the proper Duty leviable thereupon, according to the descriptions and values stated, be covered by the payment made.

**VI.** No certificate shall be received at any Station that shall bear date more than thirty days before the date when the Goods arrived at such Station; but any person, who has taken out a certificate from any authorized Receiver of Customs Duties, shall be entitled, at any time within the said period of thirty days, on satisfying such Receiver that such certificate has not been used, and on delivering up the original, to receive a renewed certificate with a fresh date without further payment of Duty.

**VII.** The said Governor of Bombay in Council may prescribe, by public notice in the official Gazette of the Presidency of Bombay, by what ways Goods shall be allowed to pass into or out of any such Foreign Territory, as is described in Sections I. and II. of this Act; and after such notice, Goods which may be brought to any Station established on other roads or passes than those so prescribed, shall, if provided with a certificate, be sent back, and if not provided with a certificate, shall be detained, and shall be liable to confiscation by the Collector of Customs, unless the person in charge thereof shall be able to satisfy the said Collector that his carrying them by that road or pass was from ignorance or accident.

**VIII.** Goods unlawfully passed, or attempted to be passed unlawfully, across any Frontier guarded by Stations, between sunset and sunrise, shall be seized and confiscated.

**IX.** Any

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**IX.** Any Station Officer who shall permit Goods to pass across the Frontier, when not covered by a sufficient certificate, or who shall permit Goods to pass by any road or pass other than the prescribed ways, shall be liable, on conviction before a Magistrate, to imprisonment for any term not exceeding six months and to a fine not exceeding five hundred Rupees, commutable, if not paid, to imprisonment for a further period of six months.

**X.** Any Station Officer who shall needlessly and vexatiously injure Goods under the pretence of examination, or in the course of his examination, or who shall wrongfully detain Goods for which there be produced a sufficient certificate, shall, on conviction before any Magistrate, be liable to imprisonment for any term not exceeding six months, and to a fine not exceeding five hundred Rupees, commutable, if not paid, to imprisonment for a further period of six months.

**XI.** All confiscations and penalties under this Act may be adjudicated, by Officers competent to adjudicate, like confiscations and penalties under Act I. of 1852, and such Officers shall be subject to the same liabilities and rules in adjudicating such penalties and confiscations as they are subject to when adjudicating the like confiscations and penalties under the provisions of the aforesaid Act.

## ACT No. III. OF 1852.

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***Passed by the Hon'ble the President of the Council of India  
in Council, on the 16th January 1852, with the assent  
of the Most Noble the Governor General of India.***

***An Act to amend the law relating to spirituous and intoxicating liquors,  
drugs, and preparations within the Territories subordinate to  
the Presidency of Bombay.***

**W**HEREAS Chapters XI. and XII. of Regulation XXI. of 1827 of the Bombay Code have been found to be difficult of application in some parts of the territories subordinate to the Presidency of Bombay, owing to local and peculiar causes, It is enacted as follows :

**I.** The Governor of Bombay in Council may introduce into any part of the said territories such arrangements for the assessment and collection of the revenue derivable from the manufacture and retail sale of spirits as local circumstances in each case, in the judgment of the said Governor in Council, may require, the same not being inconsistent or incompatible with the provisions of this Act.

**II.** The licences mentioned in Section LVIII., Clause 1, Regulation XXI. of 1827 of the Bombay Code may be granted by the Collector at his

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discretion, for the manufacture of spirits at any place within his Collectorate, whether a sunder distillery be there established or not.

**III.** It shall not be imperative on the Collector to accept the highest offer for the farm of the Akkaree duties under Section LX., Clause 2, Regulation XXI. of 1827 of the said Code, but the Collector shall be at liberty to use his discretion as to the tender he will accept under the general instructions of Government.

**IV.** No person shall directly or indirectly retail in the said territories spirits, however or wheresoever manufactured, except under the authority of a licence from the Collector, to be granted in the form of Appendix I. to the said Regulation XXI. of 1827, or in such form, and after payment of such fee, as Government may from time to time appoint.

**V.** Spirits may be manufactured in the said territories for exportation or removal under a licence from the Collector, but not otherwise; and such licence, when granted, shall specify the spirit so authorized to be manufactured, the place at which, and the period for which the manufacture may be carried on, and that the same is permitted for the purpose of removal or exportation only.

**VI.** Spirits manufactured under the last Section shall not exceed the strength which may, from time to time, be declared by public notification in each district, and shall be liable to the payment of such duty as the Governor in Council shall, from time to time, impose. Liquor found to exceed the prescribed standard shall be liable to double duty, or confiscation, at the discretion of the Collector.

**VII.** Spirits manufactured under the fifth Section of this Act, shall not be removed from the place of manufacture, except under a pass from the

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the Collector, certifying the payment of the aforesaid duty, and specifying the name of the person exporting or removing the same, the quantity of spirits, their destination, the route by which they are to be conveyed, and the dates from and to which the pass shall be in force, which pass shall exempt the spirits lawfully removed under it from the payment of any further duty in their progress through the same territories, excepting always such import or Customs duty, if any, as may be payable at the place of their destination under any Act or Regulation now or hereafter to be in force.

**VIII.** The Collector may place such establishments on the premises where the manufacture of spirits for exportation or removal is permitted, and may adopt such other precautions as may be necessary to give effect to the provisions of this Act having reference thereto.

**IX.** Spirits imported by land from any part of the territories of the East India Company, whether subordinate to the Government of Bombay or not, into any other part of the said territories subordinate to the said Government, shall be liable on importation to the same rate of duty, under the same circumstances and rules as are provided in Section XX. of Act No. I. of 1852, for amending the Customs laws of the Bombay Presidency with respect to spirits imported by sea.

**X.** It shall not be lawful, in any part of the territories subject to the Government of Bombay, to manufacture or prepare for sale, or sell directly or indirectly, any intoxicating drugs or materials, or any intoxicating drink or preparation manufactured from Bhang, Ganja, Grain, Opium or other materials, of what nature or description soever, except under a licence from the Collector of the Zillah, and it shall be competent to the Collector to refuse or to re-call such licence whenever he shall deem it expedient, and every such licence when granted shall specify the name of  
the

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the drug, material, drink, or preparation so authorized to be manufactured or sold, the place or district of manufacture or sale, and the length of time for which such licence is to run, and any other terms or conditions which the Governor of Bombay in Council may from time to time deem it expedient to require, and such fees shall be demanded from time to time, on the grant of such licences, as the said Governor in Council may sanction.

**XI.** It shall not be lawful to mix any noxious drug or material in, or by other process to adulterate spirits manufactured under the provisions of the said Regulation XXI. of 1827, or of this Act.

**XII.** All persons offending against, or aiding others in offending, directly or indirectly, against any of the provisions of this Act, or committing a breach of any of the conditions of a licence to be granted under this Act, or obstructing Officers or others in the execution of their duties connected with any of its provisions, shall be punished by fine not exceeding Rupees five hundred, to be commuted, in default of payment, to imprisonment not exceeding six months; and any person having in his possession intoxicating drinks or preparations manufactured contrary to the provisions of this Act, or for which he is unable satisfactorily to account, shall be deemed to be possessed of them illegally, and shall be subject to the penalties above specified.

**XIII.** The powers conferred on the Collector by Chapter XIII. of the said Regulation XXI. of 1827, shall extend and be applicable to the provisions of this Act, so far as the same are capable of being so applied.

**XIV.** The Collector shall have full powers to seize and destroy all unlicensed liquor, preparations, drugs, or materials, and all unlicensed stills, and to sell the same, if deemed expedient, on behalf of Government.

**XV.** The

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**XV.** The duties, powers, and authorities hereby vested in the Collector shall devolve upon, and may be lawfully exercised by the officer specially appointed under Section LV. of the said Regulation XXI. of 1827, for the purposes herein mentioned.

**XVI.** The powers vested in the Collectors of Land Revenue by Chapter XIII. of the said Regulation XXI. of 1827, and by Sections XII., XIII. and XIV. of this Act, may be exercised by Mamlutdars and Mahalkurrees; provided always, that those Officers shall not be authorized to adjudge any fine exceeding Rupees fifteen in amount, commutable, in default of payment, to twenty days' imprisonment; and provided further, that any order passed by a Mamlutdar or Mahalkurree in virtue of this Act shall be subject to appeal to the Collector or his Assistants, within one month from its date, and that no suit for damages shall be instituted in a Civil Court by persons deeming themselves aggrieved by any proceeding of a Mamlutdar or Mahalkurree under the authority of this Act, unless they shall first have made an appeal to the Collector or his Assistants.

**XVII.** In all actions or civil suits which may be brought against Collectors, Magistrates, or others for acts done by them in carrying out the provisions of this Act, or the provisions of the said Regulation XXI. of 1827, if it shall appear at the trial that the act complained of was done *bonâ fide*, and that there were reasonable and probable grounds for the same, the plaintiff shall be nonsuited with full costs to be paid by him.

**XVIII.** This Act shall not have effect within the local jurisdiction of Her Majesty's Supreme Court.



## ACT No. IV. OF 1852.

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***Passed by the Hon'ble the President of the Council of India  
in Council, on the 16th January 1852, with the assent  
of the Most Noble the Governor General of India.***

*An Act to amend the law relating to emigrant vessels and the emigration of labourers.*

WHEREAS by Section VIII., Act XXI. of 1844, it was among other things enacted, that no ship or vessel carrying emigrant labourers to Jamaica, British Guiana, or Trinidad, should sail from Calcutta, Madras, or Bombay, at any other time than between the 30th day of any September and the 1st of March next thereafter ensuing: and whereas the said provision was repealed by Act XXV. of 1845, so far as regarded vessels carrying emigrant labourers from Madras, and has been found inconvenient for vessels carrying emigrant labourers from Calcutta; and whereas it is expedient to amend the law relating to the height between decks in emigrant vessels; and whereas by Section I., Act XXI. of 1843, it was enacted, that emigration to Mauritius should only lawfully take place under the provisions of Act XV. of 1842, from the Port of Calcutta; and whereas by Act VIII. of 1847, the emigration of labourers from the Port of Madras to Mauritius was declared lawful, and it is now expedient to repeal Section I., Act XXI. of 1843, and to render lawful the emigration of labourers from the Port of Bombay to Mauritius, It is enacted as follows:

I. So much of Act XXI. of 1844 as is hereinbefore recited, is repealed, so far as regards ships or vessels carrying emigrant labourers from Calcutta.

II. No

ACT NO. IV. OF 1852.

II. No ships or vessels carrying emigrant labourers to Jamaica, British Guiana, or Trinidad, shall sail from Calcutta at any other time than between the thirty-first day of any August and the first day of March next thereafter ensuing.

III. No ship or vessel carrying emigrants and having more than one deck, shall have less than the height of five feet and six inches at the least between decks, and in case such ship or vessel shall have only one deck, a platform shall be laid beneath such deck in such manner as to afford a space of the height of five feet and six inches at the least, and such platform shall not be so laid as that the lower beams shall project above the same, and whatever may be the tonnage of the ship or vessel, no greater number of emigrant labourers shall be taken on board such ship or vessel than shall be after the rate of one emigrant labourer for every seventy-two cubic feet of space between decks, or between the deck and platform, unoccupied by goods or stores not being the personal luggage of such emigrant labourers, anything in Act XV. of 1842, or in the Schedule therein mentioned, to the contrary notwithstanding.

IV. Section I., Act XXI. of 1843 is hereby repealed, and from and after the passing of this Act, emigration to Mauritius may lawfully take place under the provisions of Act XV. of 1842 from the Port of Bombay, as well as from the Ports of Madras and Calcutta.

V. The Governor in Council of Bombay may nominate a proper person to act as Protector of Emigrants at Bombay, and no emigrant shall be permitted to embark without a certificate from the Agent appointed by the Government of Mauritius, countersigned by the Protector, to the effect that such person has been engaged by such Agent, on the part of the said Government, as an emigrant to Mauritius.

## ACT No. V. OF 1852.

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***Passed by the Hon'ble the President of the Council of India  
in Council, on the 16th January 1852, with the assent  
of the Most Noble the Governor General of India.***

***An Act for giving effect to the provisions of an Act of Parliament,  
passed in the 15th year of the reign of Her present Majesty,  
entituled "An Act for Marriages in India."***

WHEREAS by an Act passed in the Session of Parliament holden in the Fourteenth and Fifteenth years of the reign of Her present Majesty, entituled, "An Act for Marriages in India," it was enacted (among other things) that it should be lawful for the Governor General of India in Council from time to time, by laws and Regulations, (not inconsistent with the provisions of the said Act of Parliament,) to be made in the manner, and subject to the Provisions by law required in respect of laws and Regulations made by the said Governor General of India in Council, to provide for the inspection and publication of Notices of Marriage given under the said Act of Parliament, for the Custody and Protection from Injury of Marriage Register Books, for appeals from and references in case of doubt by the Marriage Registrars in relation to Marriages forbidden or Protests entered under the said Act of Parliament, for fixing the hours between which Marriages might be solemnized under the said Act of Parliament, for appointing the Officers to whom Certificates were

## ACT NO. V. OF 1852.

to be transmitted by the Marriage Registrars, and generally for giving effect to the provisions of the said Act of Parliament, It is hereby enacted as follows :

**I.** In every case of Marriage intended to be solemnized in India, after the first day of February next, under the provisions

Form of Notice  
and length of Resi-  
dence necessary.

of the said Act of Parliament, one of the parties shall give Notice in writing, in the form of Schedule (A.) to this Act annexed, or to the like effect, to any Marriage Registrar of the District within which the parties shall have dwelt for not less than five days, then next preceding, or, if the parties dwell in different Districts, shall give the like Notice to a Marriage Registrar of each District, and shall state therein the name, and surname, and the profession, or condition of each of the parties intending Marriage, the dwelling-place of each of them, and the time, not being less than five days, during which each has dwelt therein, and the Church, Chapel, or other building in which the Marriage is to be solemnized ; provided that if either party shall have dwelt in the place stated in the Notice during more than one Calendar month, it may be stated therein that he or she hath dwelt there one month and upwards.

**II.** The Marriage Registrar shall file all such Notices, and keep them with the Records of his Office, and shall also forth-

Inspection of No-  
tices.

with enter a true copy of all such Notices fairly into a book, to be for that purpose furnished to him by the Government, to be called the "Marriage Notice Book," and the Marriage Notice Book shall be open, at all reasonable times, without Fee, to all persons desirous of inspecting the same.

**III.** The Marriage Registrars, or Registrar of all Districts in the

Publication of  
Notices.

British Territories in India, shall respectively publish all such Notices of Marriage given in their respective Districts

by

## ACT NO. V. OF 1852.

by causing a copy of such Notices to be affixed in some conspicuous place in their respective offices, or, where such Registrars are Ministers of the Christian Religion, ordained or otherwise set apart to the Ministry of the Christian Religion, such Notices shall be affixed in some conspicuous place in the Church or Chapel or place of worship in which such Ministers respectively officiate. When one of the parties intending Marriage (not being a widow or widower) is under twenty-one years of age, every Marriage Registrar shall, within twenty-four hours after the receipt by him of the Notice of such Marriage, send, or cause to be sent, by the Post or otherwise, a copy of such Notice to all the other Marriage Registrars (if any) in the same District, who shall likewise affix the same in some conspicuous place in their own offices or Chapels as aforesaid.

### IV. Where by the oath or declaration required by the sixth Section of the said Act of Parliament, it appears that one of the

Suspension of Certificate in the case of Minors.  
parties intending Marriage (not being a widow or widower,) is under twenty-one years of age, the Marriage Registrar shall not issue his Certificate under the provisions of the second Section of the said Act of Parliament until the expiration of fourteen days after the entry of such Notice of Marriage.

### V. When one of the parties intending Marriage (not being a widow or widower) is under twenty-one years of age, and both

Supreme Court may order Registrar to issue his Certificate in less than fourteen days.  
parties intending Marriage are at the time resident in any of the Towns of Calcutta, Madras, or Bombay, and are desirous of being married in less than fourteen days after the entry of such Notice as aforesaid, it shall be competent for both parties intending Marriage to apply by petition to the Supreme Court of such Town, or any Judge thereof, for an order upon the Marriage Registrar to whom the Notice of Marriage has been given, directing him to issue

## ACT NO. V. OF 1852.

issue his Certificate at some time before the expiration of the said fourteen days required by Section IV. of this Act. And it shall be competent to the said Supreme Court, or any Judge thereof, on sufficient cause being shown, in their or his discretion, to make an order upon such Marriage Registrar, directing him to issue his Certificate, at any time to be mentioned in the said order, before the expiration of the said fourteen days required by Section IV.; and the said Marriage Registrar, on receipt of the said order, shall proceed to issue his Certificate in accordance therewith.

**VI.** The Certificate to be issued by the Marriage Registrar, under Form of Certificate. the provisions of the second Section of the said Act of Parliament, may be in the form of Schedule B. to this Act annexed, or to the like effect, and the Government of each Presidency or Place shall furnish to every Marriage Registrar, a sufficient number of Forms of Certificate.

**VII.** When any Native Christian about to be married, applies for or tenders a Notice of Marriage, or applies for a Certificate from a Marriage Registrar, such Marriage Registrar shall ascertain whether the said Native Christian understands the English language, and if he does not, the said Marriage Registrar shall translate such Notice or Certificate, or both of them, as the case may be, or shall cause the same to be translated to such Native Christian, in the language of such Native Christian, or the said Marriage Registrar shall otherwise ascertain whether such Native Christian is cognizant of the purport and effect of the said Notice and Certificate.

Notice and Certificate to be translated to Native Christians.

**VIII.** Any person authorized in that behalf may forbid the issue of the Marriage Registrar's Certificate, by writing, at any time before the issue of such Certificate, the word "forbidden" opposite to the Entry of the Notice of such intended How issue of Certificate may be forbidden. Marriage

## ACT NO. V. OF 1852.

Marriage in the Marriage Notice Book, and by subscribing thereto his or her name and place of abode, and his or her character, in respect of either of the parties, by reason of which he or she is so authorized, and the said word "forbidden," so written and subscribed as aforesaid, shall be deemed a protest, within the meaning of the seventh Section of the said Act of Parliament.

### IX. In all cases where a Marriage Registrar, acting under the provisions of the fourth Section of the said Act of Parliament,

References by the  
Registrars in cases  
of doubt.

shall not be satisfied that the person forbidding the issue of the Certificate is authorized by law so to do, the said Marriage Registrar shall apply by petition, which may in all cases be on unstamped paper, where the district of such Registrar is within any of the Towns of Calcutta, Madras, and Bombay, to the Supreme Court of Judicature in the Presidency or place within which such district is comprised, or if such district be not within any of the said Towns, then to the Judge of the Zillah or District within which the same is comprised, and the said petition shall state all the circumstances of the case, and pray for the order and direction of the Court concerning the same, and the said Supreme Court, or any Judge thereof, or such Judge of the Zillah or District, shall be empowered to examine into the allegations of the Petition and the circumstances of the case in a summary way, and if upon such examination it shall appear that the person forbidding the issue of such Certificate is not authorized by law so to do, such Supreme Court, or any Judge thereof, or such Judge of the Zillah or District, shall declare that the person forbidding the issue of such Certificate is not authorized as aforesaid, and that then and in such case such Certificate shall be issued, and the like Proceedings may be had under the said Act of Parliament in relation to such Marriage as if the issue of such Certificate had not been forbidden by such person. And in all cases where a Marriage Registrar, appointed to act within the Territories of any Native Prince or State in

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alliance with the East India Company acting under the provisions of the sixth Section of the said Act of Parliament, shall not be satisfied that the person forbidding the issue of the Certificate is not authorized by law so to do, the said Marriage Registrar shall transmit a statement of all the circumstances of the case, together with all documents and papers relating thereto, to the Governor General of India in Council, and if it shall appear to the said Governor General of India in Council that the person forbidding the issue of such Certificate is not authorized by law so to do, the said Governor General of India in Council shall declare that the party forbidding the issue of such Certificate is not authorized as aforesaid, and that then and in such case such Certificate shall be issued, and the like Proceedings may be had under the said Act of Parliament in relation to such Marriage, as if the issue of such Certificate had not been forbidden by such person.

**X.** In all cases whatsoever where a Marriage Registrar resident in

Appeal (where  
Registrar in Allied  
Native State refuses  
Certificate.

the Territories of any Native Prince or State in alliance with the East India Company has refused to issue his Certificate, it shall be lawful for either of the parties intending Marriage to apply by Petition to the Governor General of India in Council, and the said Governor General of India in Council shall be empowered to examine the allegations of the Petition in a summary way, and shall decide thereon, and the decision of the said Governor General of India in Council shall be final, and the Marriage Registrar, to whom the application was originally made, shall proceed in accordance therewith.

**XI.** Every Marriage solemnized under the provisions of the said

Hours for Marriages.

Act of Parliament shall be so solemnized between the hours of six in the morning and seven in evening.

**XII.** When

## ACT NO. V. OF 1852.

### XII. When any Native Christian is married under the provisions

Declarations made  
at the Marriage to  
be translated to Na-  
tive Christians.

of the said Act of Parliament, the party solemnizing the said Marriage shall ascertain whether such Native Christian understands the English language, and if he does not, the party solemnizing the said Marriage shall, at the time of the solemnization thereof, translate, or cause to be translated, to such Native Christian, in the language of such Native Christian, both the declarations made at such Marriage in pursuance of Section IX. of the said Act of Parliament.

### XIII. After any Marriage has been solemnized under the said Act of Parliament, it shall not be necessary, in support of such

Proof as to No-  
tice, Certificate or  
Hours of Marriage,  
&c., not necessary to  
establish Marriage.

Marriage, to give any proof in respect of the Notice of Marriage, or the Certificate, or the translation thereof respectively, or in respect of the hours between which any Marriage may be solemnized, or in respect to the said translations of the said declarations in Section IX. of the said Act of Parliament contained, nor shall any evidence be given to prove the contrary, in any suit touching the validity of such Marriage.

### XIV. Every Marriage Registrar who shall knowingly and wilfully

Penalties.

issue any Certificate for Marriage after the expiration of three Calendar months after the Notice shall have been entered by him as aforesaid, or who shall knowingly and wilfully issue, without the order of a competent Court authorizing him so to do, any Certificate for Marriage where one of the parties intending Marriage (not being a widower or widow) is under twenty-one years of age before the expiration of fourteen days after the entry of such Notice, or any Certificate the issue of which shall have been forbidden as aforesaid by any person authorized to forbid the issue thereof, shall be guilty of felony. And every person who shall knowingly and wilfully solemnize any Marriage

riage

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riage under the provisions of the said Act of Parliament in the absence of a Registrar of the District in which such Marriage is solemnized, or who shall knowingly and wilfully solemnize any Marriage where one of the parties to such Marriage (not being a widower or widow) is under twenty-one years of age within fourteen days after the entry of the Notice of Marriage, no order for the issue of a Certificate in less than fourteen days having been made by a competent Court, shall be guilty of felony.

**XV.** The Marriage Registrars in the Territories of any Native Prince or State in alliance with the East India Company, shall transmit the Certificates mentioned and referred to in the twelfth Section of the said Act of Parliament to the Secretary for the Foreign Department of the Government of India.

**XVI.** Every person who shall knowingly and wilfully make any false oath or declaration, or sign any false Notice or Certificate, required by the said Act of Parliament or this Act, for the purpose of procuring any Marriage, and every person who shall forbid the issue of a Marriage Registrar's Certificate, by falsely representing himself or herself to be a person whose consent to such Marriage is required by law, knowing such representation to be false, shall, on conviction, suffer the penalties of Perjury.

**XVII.** Every prosecution under this Act shall be commenced within the space of two years after the offence committed.

**XVIII.** The Governor General of India in Council may appoint any Covenanted or Uncovenanted Servant of the Company, being a Christian, or any Minister of the Christian religion, ordained, or otherwise set apart to the Ministry of the Christian

## ACT NO. V. OF 1852.

Christian religion, according to the usage of the persuasion to which he may belong, to be a Marriage Registrar in any District, to be assigned by the Governor General of India in Council in any place within the Territories of any Native Prince or State in alliance with the East India Company. And the said Marriage Registrar shall be entitled to receive the following fees; that is to say, for receiving each Notice of Marriage, one rupee, for publishing each Notice of Marriage, two rupees, for the issuing of each Certificate, five rupees, for every Marriage forbidden or Protest entered, ten rupees, and for registering each Marriage, three rupees, and all such fees shall be accounted for and paid over by the Marriage Registrar to the Government Treasury as in the said Act of Parliament mentioned. Provided always, that in any case in which it shall appear to the satisfaction of the Marriage Registrar, that the parties intending Marriage, or married, under the provisions of the said Act of Parliament, are in indigent circumstances, it shall and may be lawful for the said Marriage Registrar, in his discretion, to remit some part, but not more than three-fourths, of the said fees respectively, and in each and every such case of remission of fees, the Marriage Registrar shall report the circumstances thereof, and the grounds on which the remission is made, for the information of the Governor General of India in Council.

**XIX.** It shall be lawful for the Government of each Presidency or Place to pay any one Marriage Registrar of Calcutta, Madras and Bombay, or of any other District where a considerable number of persons likely to avail themselves of this Act are resident, such salary as they shall think fit, not exceeding the sum of Co.'s Rs. fifty per month.

**XX.** When there is only one Marriage Registrar in a District, and such Registrar is absent from such District, or ill, or in case of the death of the only Marriage Registrar in a District, or

Provision in case of illness, &c., of Marriage Registrar.

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of any temporary vacancy in such office, the Magistrate of such District shall act as, and be, Marriage Registrar thereof, during such absence, illness, or temporary vacancy as aforesaid.

Searches may be made and Certificates given. **XXI.** Every Marriage Registrar, or other person who shall have the custody for the time being of the Register of Marriages under this Act, shall at all reasonable times allow searches to be made of any Register Book in his custody, and shall give a copy, certified under his hand, of any entry or entries in the same, on the payment of the fees hereinafter mentioned, (that is to say,) for every search extending over a period of not more than one year, the sum of one rupee, and four annas additional for every additional year, and the sum of one rupee for every single Certificate, and all such fees shall be accounted for and paid over by the Marriage Registrar to the Government Treasury.

Penalty for destroying or falsifying Register Book, &c. **XXII.** Every person who shall wilfully destroy or injure, or cause to be destroyed or injured, any such Register Book, or the counterfoil Certificates thereof, or any part or certified copy thereof, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited, any part of such Register Book, or of such counterfoil Certificates, or of certified copies thereof, or shall wilfully insert or cause to be inserted, in any Register Book, or counterfoil copy or certified copy thereof, any false entry of any Marriage, or shall wilfully give any false Certificate, or shall certify any writing to be a copy or extract of any Register Book, or counterfoil copy thereof, knowing the same Register Book or counterfoil copy to be false in any part thereof, shall be guilty of felony.

Accidental errors may be corrected. **XXIII.** Any person charged with the duty of registering any Marriage, who shall discover any error to have been committed in the form or substance of any such entry, may, within

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one calendar month next after the discovery of such error, in the presence of the parties married, or, in case of their death or absence, in the presence of two other credible witnesses, who shall respectively attest the same, correct the erroneous entry according to the truth of the case, by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made, and he shall make the like marginal entry, attested in the like manner, in the counterfoil Certificate thereof, to be made by him as in the said Act of Parliament mentioned, and in case such counterfoil Certificate shall have been already transmitted to the Secretary of Government of the Presidency or Place within which he resides, he shall make and transmit in like manner a separate counterfoil Certificate of the original erroneous entry, and of the marginal correction therein made.

**XXIV.** Nothing in this Act contained shall be construed to extend

Certain Registers  
of Marriage may be  
kept as heretofore. to the Registration of Marriages which may be solemnized in India by persons in Holy Orders, or under the provisions of the Act of the 58th year of King George the Third, Chapter 84, or to the Registration of any Marriage solemnized between any two persons professing the Jewish religion, and nothing herein contained, shall affect the right of any Officiating Minister to receive the fees now usually paid for the performance or registration of any Marriage.

**XXV.** All petitions presented in pursuance of Section V. of the

Petitions to be on  
unstamped paper. said Act of Parliament, may be so presented on unstamped paper.

Commencement  
of Act.

**XXVI.** This Act shall commence and take effect from and after the first day of February 1852.

# ACT No. V. OF 1852.

## SCHEDULE (A.)

### NOTICE OF MARRIAGE.

To **Mr. John Cox**, a Registrar of the District of *Calcutta in Bengal*.

I hereby give you Notice, that a Marriage is intended to be had, within three Calendar Months from the date hereof, between me and the other party herein named and described.

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church, Chapel, place of worship, or building in which Marriage is to be solemnized.	District in which the other Party resides when the Parties dwell in different Districts.
<i>James Smith, ...</i>	<i>Widower,</i>	<i>Carpenter,</i>	<i>Of Full Age, .....</i>	<i>16, Clive Street, ...</i>	<i>23 Days, ..</i>		
<i>Martha Green,</i>	<i>Spinster, ...</i>		<i>Minor, ...</i>	<i>20 Hastings' Street, ...</i>	<i>More than a Month, ..</i>	<i>Union Chapel, Dhurrumtollah.</i>	

Witness my Hand this *Sixth Day of May, One Thousand Eight Hundred and Fifty-two.*

(Signed) **James Smith.**

(The *Italics* in this Schedule to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the Parties lives in another District.)

## SCHEDULE (B.)

### REGISTRAR'S CERTIFICATE.

I, **John Cox**, a Registrar of the District of *Calcutta in Bengal*, do hereby Certify, that on the *6th* day of *May*, Notice was duly entered in my Marriage Notice Book of the said District of the Marriage intended between the parties therein named and described, delivered under the Hand of **James Smith** one of the Parties, (that is to say,)

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church, Chapel, place of worship, or building in which the Marriage is to be solemnized.	District in which the other Party dwells when the Parties dwell in different Districts.
<i>James Smith, ...</i>	<i>Widower,</i>	<i>Carpenter,</i>	<i>Of Full Age, .....</i>	<i>16, Clive Street, ...</i>	<i>23 Days, ..</i>		
<i>Martha Green,</i>	<i>Spinster, ...</i>		<i>Minor, ...</i>	<i>20 Hastings' Street, ...</i>	<i>More than a Month,</i>	<i>Union Chapel, Dhurrumtollah.</i>	

Date of Notice entered *6th May 1852.* } The Issue of this Certificate has not been forbidden by any

Date of Certificate given *20th May 1852.* } Person authorized to forbid the issue thereof.

Witness my Hand this *Twentieth Day of May, One Thousand Eight Hundred and Fifty-two.*

(Signed) **John Cox**, Registrar.

This Certificate will be void unless the Marriage is solemnized on or before the *6th* day of *August 1852.*

(The *Italics* in this Schedule to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the Parties lives in another District.)

## ACT No. VI. OF 1852.

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***Passed by the Governor General of India in Council, on the  
30th January 1852.***

***An Act for defraying the Cost of a Light-House on Pedra Branca.***

WHEREAS it has been deemed expedient, for the safety and guidance of Ships navigating the China Seas, to build a Light-House on the Island Rock called Pedra Branca, situated at the Eastern entrance of the Straits of Singapore ; And whereas certain sums of money were subscribed by private individuals for that purpose, but the same were insufficient to defray the expense of building such Light-House ; And whereas the East India Company agreed to build such Light-House, and to advance certain sums of money to complete the same, on condition that the said sums of money were repaid to them by the levy of a toll on Ships and other square-rigged Vessels entering the harbour of Singapore ; And whereas the said Light-House has been built by the East India Company, and it is desirable that the expense of building the same, and of maintaining a Light thereon, should be defrayed out of the monies arising from such toll ; And whereas it may hereafter be deemed expedient to establish other Lights or beacons in the Straits of Malacca, or elsewhere near thereto, It is enacted as follows :

I. The Light-House on Pedra Branca aforesaid shall be called "The Horsburgh Light-House," and the said Light-House, and the appurtenances thereunto belonging or occupied for the purposes thereof, and all the fixtures,

ACT NO. VI. OF 1852.

tures, apparatus, and furniture belonging thereto, shall become the property of, and absolutely vest in, the East India Company and their successors.

II. From the first day of March 1852, every Ship, being of the burden of fifty tons and upwards, which shall arrive at, or enter the harbour or roadstead of Singapore, from any part of the world, shall pay a toll of three cents of a dollar per ton for every ton of her registered burden or tonnage; Provided always that no Ship shall pay such toll more than once in every six calendar months.

III. All Ships of War belonging to Her Britannic Majesty, or any Foreign Government or State, and all armed Ships belonging to the East India Company, shall be exempt from the payment of such toll.

IV. The management and controul of the said "Horsburgh Light-House," and of the keeper thereof, and of everything relating thereto, is hereby vested in the Governor of the Straits Settlements.

V. The said Governor may appoint any person he may think fit, to be a Collector of the tolls, payable under this Act.

VI. Out of the funds raised by such tolls, an efficient Light shall be constantly kept up and exhibited during the night-time in and from the said Light-House, and the surplus monies arising from such tolls, after deducting the expense of maintaining such Light as aforesaid, shall, from time to time, be paid over to the said East India Company, in liquidation of the monies they have advanced towards the erection and completion of the said Light-House, and the apparatus and furniture thereof.

VII. The toll to be levied under this Act shall become due and payable immediately on the arrival of every Ship liable thereto within the harbour

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harbour or roadstead of Singapore; and, immediately on the arrival of any such Ship within the said harbour or roadstead, the Collector appointed under this Act shall demand, or cause to be demanded, from the Master or other person in command of such Ship, payment of the toll of three cents of a dollar per ton for every ton of the registered burden or tonnage of such Ship, and if the same be not paid within two days after such demand made as aforesaid, or if, at any time after the arrival of such Ship as aforesaid, the said Collector shall have cause to suspect, or believe, that such Ship will immediately leave the said harbour or roadstead without paying such toll, it shall be lawful for any Justice of the Peace, upon an affidavit to that effect being made before him on oath by such Collector (which oath the said Justice is hereby authorized to administer), to issue his Warrant under his hand, directed to any Peace Officer of Singapore aforesaid, to enter on board such Ship and to seize and carry away any of the Goods, Merchandise, Guns, Tackle, Apparel or Furniture of or belonging to or on board such Ship, and to keep the same for the space of three days then next, unless the said toll shall be in the mean time paid; and in case the amount of the toll due by such Ship shall not before the expiration of such three days have been paid, then the said Collector may cause the said Goods, Merchandise, Guns, Tackle, Apparel or Furniture so seized to be sold, and out of the proceeds of such sale shall pay the amount of the said toll to which such Ship shall be liable, together with the reasonable charges of the seizure, detention, and sale, rendering to the Master or Owner, or other person having the command of such Ship, the overplus (if any) on demand.

**VIII.** The Officer of Government whose duty it shall be to grant a Port-clearance for any Ship clearing out of or leaving the port of Singapore aforesaid, shall refuse to grant such Port-clearance to any Ship until the Owner, Agent, Master or other person in command of such Ship shall produce a certificate from the Collector appointed under this Act that such

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such Ship has paid the amount of toll to which she is liable under this Act.

**IX.** Notwithstanding anything in this Act contained, the said Collector appointed under this Act, may sue for and recover the amount of any tolls payable to him under this Act, by action of debt or suit in Equity in any of Her Majesty's Courts in India, against the Owner, or Master, or other person who, at the time of default made in the payment of such toll, owned or had the command of any Ship liable thereto.

**X.** In order to ascertain the exact burden or tonnage of any Ship liable to pay the toll leviable under this Act, the Collector appointed under this Act may apply to any Justice of the Peace to require, and such Justice of the Peace shall thereupon summon and require the Owner, Master, or other person in command of such Ship, or any person having possession of the same, to produce the register of such Ship for the inspection of such Justice, and upon the refusal or neglect of any such Owner, Master, or person to produce such register, it shall be lawful for such Justice to adjudge such Owner, Master, or person to pay a fine not exceeding one hundred dollars, and in default of payment, to be imprisoned in Her Majesty's Gaol for any period not exceeding two calendar months.

**XI.** When and so soon as the monies to be advanced by the said East India Company towards the erection and completion of the said Light-House shall have been fully repaid and liquidated in manner herein provided for, it shall be competent for the Governor of the Straits Settlements to build, or cause to be built, one or more other Lights or beacons for the safety and guidance of Ships in such part or parts of the Straits of Malacca, or near thereto, as shall be deemed expedient, and the cost thereof, and of maintaining the same, and of keeping up and exhibiting a Light  
or

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or Lights therefrom, shall be defrayed out of the surplus monies arising from the toll payable under this Act, after defraying the current expenses of maintaining the "Horsburgh Light-House" aforesaid.

**XII.** Nothing in this Act contained shall be construed to authorize the levy of a toll upon any Ship passing through the Straits of Singapore and not entering the said harbour or roadstead of Singapore aforesaid.

**XIII.** The word "Ship" throughout this Act mentioned, shall be held to mean and include a Schooner, Cutter, Brig, Brigantine, Barque, Junk, Steam-Boat, and every other Vessel, as well as a Ship; and words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number, and words importing the masculine gender shall extend to females, unless there be something in the subject or context repugnant to such construction.



## ACT No. VII. OF 1852.

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*Passed by the Governor General of India in Council, on the  
6th February 1852.*

*An Act for amending Act XVII. of 1840 as to penalties for breaches  
of the Salt Laws in the Madras Presidency.*

WHEREAS inconvenience has been experienced in consequence of the Head Officers of District Police in the Madras Presidency being prohibited from taking cognizance of petty offences against the Salt Laws. It is enacted as follows:

I. Heads of District Police may hear and determine cases of offences against the Salt Laws, when the value of the Salt in question shall not exceed five Rupees, and may inflict punishment not exceeding ten days' imprisonment with labour, or a fine not exceeding three Rupees, commutable, if not paid, to imprisonment with labour for a period not exceeding ten days.

II. Whenever a Head Officer of District Police shall be of opinion that the punishment which he is empowered to inflict is not adequate to the offence committed, he shall report the case to the Magistrate for his final orders, stating precisely the nature and extent of the punishment he recommends to be inflicted; and the Magistrate shall, at his discretion, issue his orders in writing to the Head Officer of Police, to inflict such punishment

## ACT NO. VII. OF 1852.

punishment as the Magistrate may deem sufficient, not exceeding that declared in Act XVII. of 1840, recording his reasons, if his opinion is at variance with the opinion of the Head Officer of Police; or the said Magistrate shall order the Head Officer of Police to forward the parties and witnesses to him for further investigation.

**III.** If at the expiration of thirty days from the date and day of despatch of any reference from a Head Officer of District Police to a Magistrate, no answer or order of the Magistrate shall have been received by the Head Officer of Police, then the said Head Officer shall release the offenders, and the confinement which they have so had shall be considered a sufficient punishment for the said offence, and they shall not be liable to be again tried for the same.

**IV.** Heads of District Police shall report to the Magistrates, in the manner prescribed by Clause 2, Section XXXIII., Regulation XI. of 1816, of the Madras Code, all punishments which they inflict by the authority vested in them by this Act.

## ACT No. VIII. OF 1852.

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*Passed by the Governor General of India in Council on  
the 6th February 1852.*

*An Act for remunerating the Sheriffs of Calcutta, Madras, and  
Bombay, for the execution of Mofussil Process under  
Act XXIII. of 1840.*

FOR making better provision for the Sheriffs of Calcutta, Madras, and Bombay, in remuneration for the execution of legal process issued by Courts out of the said towns respectively, It is enacted as follows :

I. The several Sudder Courts of the Presidency of Fort William in Bengal, and the Sudder Courts of the Madras and Bombay Presidencies respectively, shall make, and from time to time amend, a Table of reasonable fees, to be taken on account of the execution by the Sheriff in such Presidency of any legal process issued by any Court, Judge, or Magistrate, beyond the jurisdiction of the several Supreme Courts established by Royal Charter in Calcutta, Madras, and Bombay, and of the sums to be allowed for costs of advertisements or other notifications of sales of property, according to the amount of the decrees to be satisfied by such sales,—which fees and sums shall be payable by

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by the party applying for the process before it is sent to the Sheriff for execution, and shall be deemed costs in the cause.

II. The said Table of fees and sums, when made or amended as aforesaid, shall be submitted by the Sudder Court of the Lower Provinces of the Presidency of Fort William to the Governor of Bengal, and by the Sudder Court of the North-Western Provinces of the said Presidency to the Lieutenant Governor of those Provinces, and by the Sudder Courts of Madras and Bombay respectively to the Governor in Council of the Presidencies in which such Courts respectively have jurisdiction, for his approval; and the said Table of fees and sums shall have full force and effect, and the fees and sums therein mentioned may be lawfully demanded and taken, from and after the approval thereof by the said Governor, Lieutenant Governor, or Governor in Council, as the case may be.

III. Every such Court, Judge, and Magistrate, issuing process as aforesaid, shall cause a separate account to be kept of the amount of all fees and sums so paid, and shall from time to time, as directed by Government, cause the amount thereof to be paid into the local Treasury.

IV. The Government of each of the Presidencies and Provinces aforesaid shall twice in each year account for and pay over to the Sheriff, for the time being, the amount of fees and sums so paid, after deducting all necessary expenses of receiving and keeping account thereof, and remitting the nett proceeds thereof to Calcutta, Madras, or Bombay, as the case may be; or, where the amount has accrued in the shrievalty of more than one Sheriff, shall apportion the sum paid accordingly between the Sheriff for the time being, and the then late Sheriff.

V. The

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V. The said Governments respectively may compound with the Sheriff for a monthly payment to be made to him instead of such fees and sums, and during such composition may appropriate the said fees and sums to the purposes of Government.

VI. Over and above such fees and sums, or any such monthly payment received instead of such fees and sums, the Sheriff shall be entitled to a fee after the rate of Two Rupees Eight Annas for each Hundred Rupees of the value of any goods or property taken and sold by him in execution of any process issued by any Court, Judge, or Magistrate beyond the local jurisdiction of the said Supreme Courts, which fee shall be taken to cover all expenses connected with the seizure and sale, except the expense of advertisements.

VII. No fee, estimated upon the amount of the sum for which any person is taken in execution, shall be payable to the Sheriffs of Calcutta, Madras, or Bombay, or any of their Bailiffs, for taking the body of any person in execution on any process issued by any Court, Judge, or Magistrate out of the local jurisdiction of the said Supreme Courts respectively ; but instead thereof, such fees shall be payable to the Sheriff for taking the body of any person in execution of any such process as shall be settled, from time to time, by the Sudder Court as aforesaid.

VIII. If any person taken in execution on any such process shall escape out of the legal custody of the Sheriff, the Sheriff shall not be liable to an action of debt for such escape, but shall be liable only to an action upon the case for damages in consequence of such escape sustained by the person or persons at whose suit the prisoner was taken.



## ACT No. IX. OF 1852.

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*Passed by the Governor General of India in Council on  
the 6th February 1852.*

*An Act to repeal Regulation I. of 1832 of the Bengal Code.*

WHEREAS a tract of land situated near the town of Bithoor, in the district of Cawnpore, was granted by the British Government as a jagheer during pleasure to the Maharajah Bajee Row Behadoor; and whereas by Regulation I. of 1832 of the Bengal Code, it was (among other things) enacted, that from and after the passing of that Regulation, the jurisdiction of the Courts of Civil and Criminal Judicature, and the operation of the General Regulations, should not extend to the tract of land aforesaid, and that the said Maharajah should exercise the Civil and Criminal administration of the jagheer, subject to such control as therein mentioned; and whereas the said Maharajah Bajee Row died on the 28th day of January 1851, and it is now expedient to repeal the said Regulation I. of 1832; It is declared and enacted as follows:

I. Regulation I. of 1832, of the Bengal Code, is hereby repealed.

II. The said tract of land being part of the district of Cawnpore, all Laws and Regulations now in force within such district, shall be in force in the said tract of land.

III. All

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III. All cases, Civil or Criminal, in which the cause of action arose, or the offence was committed within the said tract of land before the passing of this Act, may be tried and determined by the Courts of the said district of Cawnpore, and the General Laws and Regulations now in force in such district may be applied and administered by the said Courts in the trial and determination of such cases; but if in any case it shall appear that the application of the said Laws and Regulations would operate unjustly if applied to the trial and determination of such case, it shall be lawful for such Courts to try and determine the same according to equity and good conscience.

IV. Provided always, that no Court shall try or determine any case, Civil or Criminal, with respect to which a final decision may have been pronounced previous to the said 28th day of January 1851, by any Court or person within the said tract of land, having at the time of such decision, lawful power and authority to pronounce it.

## ACT No. X. OF 1852.

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***Passed by the Governor General of India in Council, on  
the 6th February 1852.***

***For constituting Commissioners for the Improvement of the Town  
of Calcutta.***

WHEREAS Act XVI. of 1847, for constituting Commissioners for the Improvement of the Town of Calcutta, has been found inconvenient and ineffectual for the intended purposes thereof, It is enacted as follows :

I. Act XVI. of 1847 is repealed, except as to anything done, or forborne to be done, under the said Act before the passing of this Act, but not so as to revive Act XXIV of 1840. Provided always, that the taxes leviable under Act XVI. of 1847, on the owners or users of Carriages, Carts, and Horses, may still be assessed and imposed on such owners or users for the last Quarter or part of a Quarter previous to the passing of this Act; and all taxes and arrears of taxes, assessed and imposed on the owners or users of Carriages, Carts, and Horses under Act XVI. of 1847, and not collected at the time this Act comes into operation, may be levied and recovered as if the said Act XVI. of 1847 were not repealed.

II. The scheme of election agreed upon by the owners and occupiers of assessed houses, buildings, and lands in each division of the

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Town, and the rules made by the Commissioners, severally approved by the Deputy Governor of the Presidency of Fort William in Bengal and President of the Council of India in Council, in pursuance of the said Act, are rescinded and annulled. Provided always, that all taxes and arrears of taxes assessed and imposed on the owners or users of Carriages, Carts, and Horses under Act XVI. of 1847 and Section I. of this Act, and not collected at the time this Act comes into operation, may be levied and recovered as if the said Rules were not repealed.

III. For the purposes of this Act the Town of Calcutta shall be divided into two divisions, that is to say, a Northern and Southern Division, by a line passing from the river Hooghly at the old Fort Ghaut along the centre of Fairlie Place, Clive Street, the street on the Northern side of Tank Square, Loll Bazaar, Bow Bazaar, and Boitacannah ; or such other two divisions as the Governor of the Presidency of Fort William in Bengal, from time to time, may appoint: and, whenever any such new division shall be made, the provisions of this Act, with respect to the divisions herein defined, shall be deemed to apply thenceforth to such new divisions.

IV. There shall be four Commissioners for executing the powers of this Act, who shall be styled the Commissioners for the Improvement of the Town of Calcutta, of whom two shall be appointed by the Governor of the Presidency of Fort William in Bengal, and two shall be elected as hereinafter provided, that is to say, one for each division of the said Town.

V. The Commissioners shall enter upon their office on the First day of January in each year, and shall hold their office regularly for one year, or until their successors are duly constituted; and until the first constitution of Commissioners under this Act, the Commissioners now  
acting

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acting in the execution of the said Act XVI. of 1847, shall exercise the powers of this Act, and shall be deemed Commissioners under this Act.

**VI.** Every person is entitled to one vote in the election of a Commissioner under this Act who is the owner of a house, building, or ground in either division of the said Town, and is assessed at not less than ten rupees' tax in the whole for a quarter of a year, in respect of such house, building, or ground, and who, on or before the 20th day of November in each year, has paid all such taxes due from him up to the last day of July, in the same year.

**VII.** Every person is entitled to one vote in the election of a Commissioner under this Act who is the occupier of any house, building, or ground in either division of the said Town, and who pays a monthly rent of not less than rupees seventy in respect of such house, building or ground.

**VIII.** Each voter is entitled to vote in that division only in which he is assessed to the amount which constitutes his qualification: but any person who is assessed or pays rent to the qualifying amount in each division, may be entitled to vote in both. No person shall be entitled to two votes in any one division by reason of his being both an owner and occupier to the qualifying amounts respectively in such division.

**IX.** All elections under this Act shall be under the management of the Sheriff of Calcutta, who shall appoint a sufficient number of Deputies to help him in presiding thereat: and every Deputy, while so acting for the Sheriff, shall have the same powers and duties as the Sheriff with respect to the division for which he is acting.

**X.** The

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**X.** The elective Commissioners shall be chosen yearly, on a day between the First and Twentieth days of December, to be appointed in each year by the Sheriff of Calcutta, of which day, and also of the place of election, the Sheriff shall give notice, by advertisement in the *Calcutta Gazette*, Fifteen days at least before the day of election.

**XI.** The place of election for each division of the Town shall be the Town Hall of Calcutta, or such other place as the Sheriff, with the sanction of the Governor of the Presidency of Fort William in Bengal, shall, from time to time, appoint.

**XII.** The voting shall begin at eight of the clock in the morning, and end at five of the clock in the afternoon of the appointed day.

**XIII.** Every person qualified to vote in the election, and none other, is qualified to be a candidate for election as a Commissioner.

**XIV.** Every candidate shall, ten days at least before the day of election, give notice thereof in writing to the Sheriff, naming the division for which he is a candidate, and shall at the same time produce to, and leave with, the Sheriff a certificate from the Secretary to the Commissioners that he is qualified to be a candidate, which certificate the Secretary shall be bound to give without fee or charge, on personal application, to any person duly qualified.

**XV.** All expenses of the election of Commissioners, including the expense of advertising the time and place of election, shall be defrayed by the candidates; and every candidate shall, at the time when he produces to the Sheriff his certificate of qualification, deposit with the Sheriff the sum of two hundred rupees toward the expenses of the election, and in default thereof shall not be qualified to be elected.

**XVI.** If

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**XVI.** If the whole amount so deposited shall not be spent by the Sheriff in such election, the residue shall be returned to the candidates in equal proportions; and if the whole amount so deposited is not enough to defray the expense of such election, the Sheriff shall be entitled to receive from each candidate his proportionate share of the surplus expense, and in default of payment may sue for and recover the same, as money spent on behalf of such candidate.

**XVII.** The Commissioners shall cause to be prepared, in each year, correct alphabetical lists of the owners qualified to vote in each division of the Town, and also an alphabetical list of the occupiers qualified to vote in each of the said divisions, who shall, on or before the First day of November in each year, apply to the Commissioners to have their names entered in such lists, and the said lists shall be open for inspection at the office of the said Commissioners, on or before the First day of December in each year, during all reasonable hours of the day, until the day of election, when the said lists, or copies thereof, shall be taken to the place of election for the use of the Sheriff and his Deputies.

**XVIII.** The Secretary to the Commissioners, on the written application of any person qualified to vote as aforesaid, signed by himself, specifying the division, street and number, or other description of every house, or building, or the land in respect of which the claim is made, and delivered to the Secretary on some day between the 1st and 30th day of November, both inclusive,—with, where the applicant is an owner, the received assessment bills, shewing that the applicant has paid the taxes required by this Act to qualify him to vote, or with, where the applicant is an occupier, the received rent bills, shewing that such occupier has paid the rent required by this Act to qualify him to vote,—shall give to such person a voting ticket, according to his qualification. The voting tickets shall be numbered and signed by the Secretary to the

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Commissioners, and shall be in one of the forms contained in the first Schedule annexed to this Act, or in such other form as shall be, from time to time, adopted by the Commissioners, with the approval of the Governor of the Presidency of Fort William in Bengal; the Secretary to the Commissioners shall keep a Register of such voting tickets, which shall specify the number of each voting ticket, the name of the voter, and the premises in respect of which such voting ticket is given, and the said Secretary, on the day of election, shall take the said Register to the place of election, for the use of the Sheriff and his Deputies.

**XIX.** The voting ticket shall be conclusive evidence that the person named therein is entitled to vote at the next election of a Commissioner in the division for which the ticket is given, according to the tenor thereof.

**XX.** At the time and place appointed for the election, the Sheriff or his Deputies shall attend with two closed boxes, with openings in each box for the reception of voting tickets, and distinguished from each other, by having marked or painted legibly, in English and Bengallee characters, the word "Northern" on one box, and the word "Southern" on the other.

**XXI.** Every voter, having obtained his voting ticket in each division in which he is qualified to vote, and having written thereon the name of the candidate for whom he wishes to vote, and having signed the same, shall personally attend at the place of election, and shall deliver his voting ticket to the Sheriff, or one of his Deputies presiding at the election for that division, who, on being satisfied of the identity of the person tendering the voting ticket with the person whose signature it bears, shall deposit such voting ticket in the box of the division.

**XXII.** The

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**XXII.** The Secretary, Assessors, Collectors, and Collecting Sir-cars of the Commissioners, and, if required by any candidate, an agent appointed by writing under his hand on his behalf, shall attend at the place of election during the continuance thereof, for the purpose of assisting in identifying the persons who shall tender voting tickets.

**XXIII.** The decision of the Sheriff, or his Deputy, admitting or rejecting any disputed vote tendered at any election, shall be conclusive as to the reception of the vote.

**XXIV.** At the close of the poll for any division, the Sheriff or his Deputies, in the presence of the candidates, or such of them as choose to be present, or of scrutineers appointed in writing under their several hands, shall ascertain the number of votes given for each candidate in each division; and the Sheriff shall thereupon publicly declare the name of the candidate in each division for whom the greatest number of votes has been given in such division, and shall declare such candidate to be duly elected a Commissioner for the Improvement of the Town of Calcutta.

**XXV.** If two or more candidates at the head of the poll in any one division of the Town shall have the same number of votes, the Governor of the Presidency of Fort William in Bengal shall appoint one of the candidates, having such equal number of votes, to be one of the elected Commissioners for the Improvement of the Town of Calcutta.

**XXVI.** The result of every election shall be certified by the Sheriff to the Governor of the Presidency of Fort William in Bengal, who will cause notice thereof to be given in the *Calcutta Gazette*.

**XXVII.** If any vacancy, from any cause whatever, happens before the month of December in any year among the Commissioners, the

Governor

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Governor of the Presidency of Fort William in Bengal shall appoint a person qualified to be elected to fill such vacancy, and the Commissioner appointed to fill such vacancy shall be a Commissioner as if he had been elected at the then last general election of Commissioners.

**XXVIII.** The 158th Section of the Act of Parliament passed in the 33rd year of the reign of King George the Third, and numbered Chapter 52, is hereby repealed, and the powers and duties which by the said Act were conferred and imposed on the Justices of the Peace within or for the Presidency of Fort William in Bengal, in regard to the collection, levying, and disbursement of the taxes thereby authorized to be assessed by them on the owners or occupiers of houses, buildings, and grounds, shall be exercised and performed by the said Commissioners, instead of the said Justices of the Peace; and the powers and duties by Act XXII. of 1847, or any other Act, conferred on or belonging to the Commissioners constituted under the said Act XVI. of 1847, and their Officers, shall be transferred to, and belong to the Commissioners constituted under this Act and their Officers respectively.

**XXIX.** The Justices of the Peace within and for the said Town of Calcutta shall make a quarterly assessment at the rate of six and one quarter per cent., or one anna in the Rupee, on the owners of houses, buildings, and grounds within the said Town, according to the gross monthly rental thereof, or on the gross monthly rental at which the same might, in the estimation of the said Justices, reasonably be expected to let.

**XXX.** Of the two Commissioners yearly appointed by the Governor of the Presidency of Fort William in Bengal, one shall be President of the Commissioners. In the absence of the President, such other Commissioner shall act as Chairman of the meetings of the Commissioners as shall be chosen by those present. On all questions on which the Commissioners

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Commissioners present are equally divided in opinion, the President shall have a second or casting vote. No meeting of the Commissioners shall be held without twenty-four hours' notice being given to all the Commissioners, and two Commissioners shall be necessary to constitute a meeting.

**XXXI.** The Commissioners shall severally receive such monthly salaries, not exceeding two hundred and fifty rupees each, to be paid out of the taxes levied under the said Act of Parliament, and Act XVI. of 1847, and this Act, as the Governor of the Presidency of Fort William in Bengal, with the approval of the Governor General of India in Council, shall from time to time appoint.

**XXXII.** The Commissioners shall appoint a Secretary, subject to the approval of the Governor of the Presidency of Fort William in Bengal, and shall also appoint a sufficient number of Assessors, Collectors, Surveyors, Inspectors, Appraisers, Bailiffs, and such other Officers as they may deem necessary for assessing, collecting, or levying the taxes imposed on the owners or occupiers of houses, buildings, and grounds under the authority of the said Act of Parliament, and of this Act, and also the taxes and penalties herein mentioned, and may appoint the same persons to act both as Assessors and Collectors, and may prescribe such rules, and take such security for the due execution of the duties of such Secretary and Officers as they may deem expedient; and the Secretary and Officers of the Commissioners shall receive such salaries, to be paid out of the said taxes, as the Commissioners from time to time may appoint, subject to the approval of the said Governor. The Secretary and every other Officer shall be removable at the pleasure of the Commissioners, subject, in the case of the Secretary, to the approval of the said Governor.

**XXXIII.** All rates and taxes assessed on the owners of houses, buildings, and grounds, and penalties imposed under the authority or

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colour of the said Act of Parliament, and Act XVI. of 1847, before this Act comes into operation, may be demanded, and if not duly paid, may be levied and recovered by the Commissioners acting under the authority of this Act, in the same manner, and by the same forms, or by forms to the like effect, as if they had been imposed under the authority of this Act.

**XXXIV.** The owners of houses, buildings, and grounds, within the said Town, shall pay such sums of money as shall be assessed upon them by the said Justices according to the said rate of six and a quarter per cent., or one anna in the rupee.

**XXXV.** Where there is land wholly or partly covered with houses or buildings, which do not belong, or which belong only in remainder or reversion, to the owner of the land, and rent is covenanted to be paid to the owner of the land, wholly or partly irrespective of the value of the said houses or buildings, the said Justices may assess the owner of the land separately, in respect of the land, and the owners of the houses and buildings, according to their value, after deduction of the value of the land, in respect whereof the owner thereof is separately assessed.

**XXXVI.** The said Justices, in their discretion, may omit from their valuation and assessment any tenement of very small value, unless where there are many such belonging to the same owner, which can be conveniently valued and assessed together.

**XXXVII.** Where any house, building, or ground, within the said Town, has been vacant for sixty consecutive days in any quarter of a year, the rates for that quarter shall be remitted, provided that the owner of such house, building, or land, shall have given notice in writing of the vacancy thereof, to the Secretary of the Commissioners, within seven days

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next after the day on which it becomes vacant; and if such notice of vacancy be not given within the said seven days, the said rates shall be remitted from the day on which the notice may be delivered to the Secretary.

**XXXVIII.** The first assessment to be made under this Act shall be made on or after the Twelfth day of February 1852, for the months of February, March, and April 1852, and when made, shall be taken to supersede and annul any previous assessment made by the Justices for the same period or any portion thereof; and every following assessment shall in like manner be made prospectively at the commencement of the quarter of a year in which it is made.

**XXXIX.** The assessment of the taxes specified in this Act shall be made by the said Justices or any of them, but shall in every case require to be confirmed at a subsequent meeting of the said Justices, and the said Justices shall cause such assessments, when made and confirmed, to be entered in books to be kept in their office, and the entries for such assessments in the said books, authenticated by the signatures of the Justices, or any two of them, shall be conclusive evidence of the several assessments therein specified.

**XL.** The Justices shall give at least fourteen days' notice, by advertisement in the *Calcutta Gazette*, of the day and hour when they will meet in their office, for the purpose of revising and confirming the said assessment; and every person who deems himself aggrieved in any respect by the said assessment, and is desirous of appealing against the same, must attend such meeting; and the Justices may adjourn such meeting, if necessary, from day to day; and, after hearing and determining all objections to the assessment, may make such amendments therein as to them may appear just, and finally confirm the same as so amended.

**XLI.** The

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**XLI.** The books containing the proposed assessment shall be in the office of the Justices during the said period of fourteen days, or more, open at all reasonable times to the inspection of all persons assessed therein.

**XLII.** The taxes specified in this Act shall be due and payable from and after the end of the quarter of a year, or other period for which they are imposed.

**XLIII.** When the taxes specified in this Act shall be due and payable, or as soon after as convenient, the said Commissioners shall send, or cause to be sent, to the persons severally liable to pay any of such taxes, a statement or bill in the form (A.) contained in the second Schedule annexed to this Act, or to the like effect, of the sums due from such persons respectively in respect of the said taxes.

**XLIV.** When any person shall be in arrear of the payment of the said taxes specified in this Act, the said Commissioners, or any one of them, or their Officer duly authorized by them, may issue, or cause to be issued and served upon such person, a Notice of Demand in the form (B.) contained in the second Schedule annexed to this Act, or to the like effect: and if he shall not, within five days from the service of such Notice of Demand, pay the arrear due from him, according to the tenor of such Notice of Demand, the said Commissioners, or any one of them, or their Officer duly authorized by them, may issue and serve, or cause to be issued and served, upon such person a summons to pay in the form (C.) contained in the second Schedule annexed to this Act, or to the like effect, requiring such person to appear before the said Commissioners, or any one or more of them, on a day and at an hour and place to be named in such summons.

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**XLV.** On the appearance of the party summoned, the said Commissioners, or any one or more of them, may make such further enquiry into the case as to them or him seems just, and may make such order for the payment of the whole or any part of the demand as to them or him seems just; and in case of the non-appearance of the party summoned, the said Commissioners, or any one or more of them, on proof of service of the said summons, and on making such further enquiry into the case as to them or him seems just, may decide the claim, in like manner as if the said party were present, and may make such order for the payment of the demand, together with such costs as to them or him may seem reasonable.

**XLVI.** In order that the Justices and Commissioners may be better informed of the value of any house, building, or ground, or in any other matter relating to their duty under this Act, and the execution thereof, the Justices or Commissioners, or any one of them, or their Officer duly authorized by them, may issue a summons, in the form (D.) contained in the second Schedule annexed to this Act, to any person whom they are desirous of examining for that purpose; and any one or more of the said Justices or Commissioners may examine such person so summoned concerning the value of such house, building, or ground, or other matter relating to the assessment; and such examination shall be taken down in writing, in such manner as the Justices or Commissioners may order: and in case the answers of such person so examined shall appear to the said Justices or Commissioners to be evasive or untrue; or in case the party summoned shall refuse to answer any lawful question of the said Justices or Commissioners, or any one of them, or shall be proved to have refused to receive, or to have wilfully destroyed, defaced, or unlawfully detained any Bill, Summons, or Notice of Demand served upon him, with intent to evade being lawfully rated to the full amount of any of the said taxes due from him, or with intent

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to avoid or delay payment thereof; or shall be proved knowingly, or through gross negligence, to have given any false information, either verbally or in writing, to the said Justices or Commissioners, or any of them, or any of their Assessors or Officers, whereby they or any Assessor or person employed by them shall be misled in making any assessment; or in case the party summoned shall refuse, or without lawful excuse neglect to appear before the said Justices or Commissioners, in pursuance of such summons; such person shall, for any of the above-mentioned offences, be liable to such penalty, not exceeding one hundred rupees, as shall be set on him by the said Justices or Commissioners, or any one of them, and such penalty shall be recovered under a warrant to be issued for that purpose by the said Justices or Commissioners, or any one of them, by distress and sale of any goods and chattels within the Town belonging to the person liable to pay or make good the said penalty; and every such warrant of distress may be in the form (G.) contained in the second Schedule annexed to this Act, or to the like effect.

**XLVII.** All arrears of taxes and penalties due under the said Statute 33 George III., Act XVI. of 1847, and this Act, and the costs and charges of recovering the same, may be recovered at any time after the day on which the person liable to pay such arrears has been summoned to appear before the Commissioners, or any one or more of them, as provided by Section XLIV. of this Act, under a warrant to be issued for that purpose, under the hand and seal of one of the said Commissioners, by distress and sale of any goods and chattels within the Town of Calcutta, belonging to the person liable to make good or pay the same, or being at any time within the house or building, or upon the ground in respect of which any such assessment is made; and every such Warrant of Distress may be in the form (E.) contained in the second Schedule annexed to this Act, or to the like effect.

**XLVIII.** The

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**XLVIII.** The Bailiff shall make an inventory of all goods and chattels seized under any warrant, and shall give a notice in writing in the form (F.) contained in the second Schedule annexed to this Act, or to the like effect, to the person in possession thereof at the time of the seizure, that the said goods and chattels will be appraised and sold in manner therein mentioned.

**XLIX.** If the warrant is not in the mean time discharged or suspended by one or more of the said Commissioners, the goods and chattels seized shall be appraised and sold, and the proceeds thereof shall be applied in discharge of the arrears, or penalty, and costs ; and the surplus, if any, shall be returned, on demand, to the person in possession of the goods and chattels at the time of the seizure ; and the fees upon every such proceeding shall be such as are mentioned and set forth in the third Schedule annexed to this Act.

**L.** Instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or any part of the rates, taxes, or penalties under the said Statute 33 Geo. III., Act XVI. of 1847, or this Act, the Commissioners, or any one or more of them, if they think fit, may authorize any Collector or other person to sue the person liable to pay such rates, taxes, or penalties for any arrears of such rates, taxes, or penalties, in the Calcutta Court of Small Causes ; and all such suits may be prosecuted by such Collector or other person in the name of the Commissioners ; and the costs, if any, incurred in any such suit, which are not recovered in the suit, may be defrayed out of the taxes levied under this Act.

**LI.** When any Bill, Notice of Demand, Summons, or other proceeding of any kind whatsoever with respect to any taxes under the said Statute, Act XVI. of 1847, or this Act, is to be issued to the owner of

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of any premises, if his name be not certainly known, it shall be sufficient to address such proceeding to him by the description of the "Owner" of the premises (naming or describing them) in respect of which such proceeding is issued, without further name or description of such owner, and such proceeding may be duly served as hereinafter mentioned; and every Bill, Notice, Summons, or Notice of Demand, may be served personally upon the person to whom the same is addressed, or left with his door-keeper, or some inmate of his place of abode; and when any person shall, by keeping his place of abode or business closed, or by absconding, or by violence or threats, prevent any Officer or Servant of the said Commissioners from serving any Bill, Notice, Summons, or Notice of Demand, as herein directed, such Bill, Notice, Schedule, Summons, or Notice of Demand, shall be duly served, by fixing the same conspicuously on some part of the outer wall, gate, or door of the house or place of business, or of the enclosure in which it stands: in case the place of abode of the owner be not within the limits of the said Town, it shall be sufficient for the Commissioners to transmit any Bill, Notice, Summons, or Notice of Demand, directed to him by name, through the Post, or to serve the same upon the occupier of the premises assessed, or upon the agent (if any) of such owner.

**LII.** No distress levied under the authority of this Act shall be unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the Notice, Bill, Summons, Notice of Demand, Warrant of Distress, Inventory, or other proceeding relating thereto, nor shall he be a trespasser from the beginning on account of any irregularity afterwards committed by him.

**LIII.** The said Commissioners shall, from time to time, subject to the approval of the Governor of the Presidency of Fort William in Bengal, make

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make Rules for regulating their proceedings under this Act, and for the regulation of the time and manner of demanding and collecting the taxes specified in this Act, and for altering any of the forms set forth in the Schedules hereunto annexed, and the said Justices shall, from time to time, subject to the like approval, make Rules for regulating their proceedings under this Act, and for the regulation of the time and manner of assessing the rates specified in this Act.

**LIV.** The goods and chattels of the owner of any house, building, or ground rated under the said Statute 33 George III. Chapter LII., Section CLVIII. Act XVI. of 1847, or this Act, shall be liable to be distrained anywhere (except goods and chattels concealed as hereinafter mentioned), for deficiency in the payment of rates ; and it shall not be necessary in any assessment, rate or tax, or Warrant of Distress under the said Statute, Act XVI. of 1847, or this Act, to specify the names of the owners of houses, buildings, or grounds ; but it shall be sufficient if the house, building, or ground, in respect of which the tax is assessed, be identified, and in the case of houses numbered in any street, that the name of the street and the number of the house be specified.

**LV.** All goods and chattels, which shall be found upon any premises rated, shall be liable to be distrained for any arrears of rates or taxes assessed in respect thereof; and if the said goods and chattels belong to the occupier of such premises, such occupier may deduct the amount of the levy made upon his goods and chattels, or of any payment made by him in order to prevent such levy, from the following payments of his rent. If they belong to any person other than the occupier of the premises, or if no further rent is payable by such occupier, he may in such case recover the amount so paid or levied, by suit in the Calcutta Court of Small Causes, from the owner of the premises, as for money paid on his behalf.

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**LVI.** Every person shall be entitled to have from the Secretary to the Commissioners, on application at their Office, and on payment of a fee of four annas, a certificate, specifying the last quarter in respect of which the taxes on account of any house, building, or ground are paid.

**LVII.** When there is reason to believe that goods and chattels, liable to distress under the said Statute, Act XVI. of 1847, or this Act, are concealed in any zenana, the Officer charged with the execution of the warrant shall make a special report to the Commissioner granting the same, who shall thereupon follow, as closely as may be, the rules for the seizure of goods and chattels in like cases adopted by Her Majesty's Supreme Court of Judicature.

**LVIII.** Every person who wilfully obstructs or molests the said Commissioners, or any one of them, or their Secretary, or any of their Officers or Servants in the performance of their respective duties, under the said Act of Parliament, Act XVI. of 1847, or this Act, shall be liable, on summary conviction before a Justice of the Peace, on his own confession or the oath of one or more witnesses, to forfeit and pay a penalty not exceeding fifty rupees.

**LIX.** The Commissioners or any one of them may sue and be sued at Law and Equity in the name of their Secretary for the time being, and no action or suit to be brought or commenced by or against such Secretary, in manner aforesaid, shall abate or be discontinued by the death, resignation, or removal of such Secretary; and no execution shall issue or be had in any such action or suit against such Secretary until six months' notice shall have elapsed after final judgment in such action or suit shall have been obtained, and every such Secretary, in whose name or by or against whom any such action or suit shall be brought, commenced, or sued, shall be fully reimbursed and paid

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paid all such costs, charges, damages, and expenses as by the event or in consequence of any action, suit, or proceeding he shall pay, sustain, or be put unto or become chargeable with or liable to by reason of his being plaintiff or defendant as aforesaid, or of his name being used as aforesaid, by and out of the funds under the control of the Commissioners; and if any person against whom the Commissioners shall have any claim or demand, take the benefit of, or become subject as an insolvent to the operation of any Act for the Relief of Insolvent Debtors, the Secretary of the Commissioners in all proceedings in the insolvency may represent the Commissioners, and act in their behalf in all respects as if such claim or demand had been the claim or demand of such Secretary, and not of the Commissioners.

**LX.** The Secretary of the Commissioners being the plaintiff, prosecutor, or defendant, or otherwise acting in any action, suit, or proceeding as aforesaid, shall be competent to be a witness therein, in the same manner as he might have been if his name had not been made use of as the plaintiff, defendant, or otherwise in any such action, suit, or proceeding.

**LXI.** No writ or process shall be issued out against or served upon any Commissioner, or any Secretary, Surveyor, or other Officer, or person whomsoever acting under the direction of the Commissioners, for anything done or intended to be done under the powers of this Act, until the expiration of one month next after notice in writing shall have been delivered to him or left at his Office or place of abode, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff, and of his Attorney or agent in the cause; and upon the trial of any such action, the plaintiff shall not be permitted to go into evidence of any cause of action except such as is stated in the notice so delivered, and unless such notice be proved, the Court shall find for the defendant; and every such action shall be brought or commenced within three calendar months

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months next after the accrual of the cause of action, and not afterwards; and if any party shall have committed any irregularity, trespass, or other wrongful proceedings in the execution of this Act, or by virtue of any power or authority hereby given, and if before action brought in respect thereof, such party shall make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action when brought, and if no such tender shall have been made, it shall be lawful for the defendant in such action, by leave of the Court where such action shall be pending, at any time before issue joined, to pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

LXII. No matter or thing done, or contract entered into by the Commissioners, or any one of them, or by any Secretary, Surveyor, or other Officer or person whomsoever, acting under the direction of the Commissioners, shall, if the matter or thing were done, or the contract were entered into *bonâ fide*, for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever; and any expense incurred by any such Commissioner, Secretary, Surveyor, or other Officer or person acting as last aforesaid, shall be borne and repaid out of the funds under the control of the Commissioners.

LXIII. In any such action as aforesaid the defendant may plead the general issue, and give this Act, and any special matter in evidence on the trial.

LXIV. If in any such action judgment be given for the defendant, or if the plaintiff be nonsuited or discontinue the said action, the defendant shall be entitled to his costs as between attorney and client, and

## ACT No. X. OF 1852.

and shall have such remedy for recovery thereof as any defendant has for his costs in any other case by law.

**LXV.** The whole proceeds of the said taxes, after paying all salaries, establishments, and incidental expenses of the said Commissioners, shall, with such moneys as the Governor of the Presidency of Fort William in Bengal, with the sanction of the Governor General of India in Council, may direct to be paid to the said Commissioners, be applied by them to the following purposes, that is to say,—

1stly,—Cleansing, repairing, lighting and watering the roads and streets.

2ndly,—Constructing new drains and sewers, and cleansing and repairing or filling up and abolishing old drains and sewers.

3rdly,—Filling up stagnant pools of water, holes in the earth, and all receptacles for filth and rubbish, and removing obstructions in or on the roads and to the free circulation of air.

4thly,—Formation of tanks and aqueducts for the conveyance of water to all parts of the Town.

5thly,—Opening of streets and squares in crowded parts of the Town.

6thly,—Improving and embellishing the said Town generally.

**LXVI.** In construing this Act all words used in the singular number shall be held to include several persons and things, and words in the plural shall be held to include the singular number, and all words importing the masculine gender shall extend and be applied to females as well as males, unless there is something in the context inconsistent with such construction.

ACT NO. X. OF 1852.

## FIRST SCHEDULE.

No.

*Form 1.*

### *Form of Voting Ticket.*

Division.	Name of Rate-payer.	Aggregate value of Houses, Buildings, or Grounds for which he is assessed.	Total Assessment.

### Entitled to vote.

*Secretary.*

### *Reverse.*

I, the undersigned, being the rate-payer within described, do hereby give my vote for \_\_\_\_\_ as Commissioner for the ( ) Division.

Calcutta, 18 . }

—

*Signature.*

No.

### *Form 2.*

Division.	Street.	No. of House.	Name of occupier.

### Entitled to vote.

*Secretary.*

### *Reverse.*

I, the undersigned, being the occupier within described, do hereby give my vote for \_\_\_\_\_ as Commissioner for the ( ) Division.

*Calcutta,* 18 . }

*Signature.*

## SECOND SCHEDULE.

ACT No. X. OF 1852.

SECOND SCHEDULE.

( A )

*House Tax Bill.*

Division No.	Premises No.	Dr.
Street No.	To Assessment on the above-mentioned Premises for Quarter.	
	Rated at Rupees            „            „            per Month.	
	Quarterly Assessment,      Rs.            „            „	
Remit	Received Payment,	
	<i>Calcutta,</i>	18 .
		<i>Collector.</i>

( B )

*Notice of Demand.*

*Number*  
*Division*  
*Street*  
*House*

Take Notice that I, on behalf of the Collector of Assessments, have demanded and demand from you the arrears of Taxes assessed upon you as owner of the premises mentioned in the margin, for the (        ) Quarter, viz., the months of 18        under the Provisions of Act X. of 1852, amounting to Rupees       , and that if the same be not paid into the Collector's Office within five days after this demand, you will be reported to the Commissioners, and will be liable to the expenses of any further proceedings.

For the Collector,

*Collecting Sircar.*

*Calcutta,*  
This                    day  
of                    18 .

( C )

ACT No. X. OF 1852.

( C )

*Summons to Pay.*

No.

To

*Number*      You are hereby summoned to appear personally before  
*Dirision*      the Commissioners for the Improvement of the Town of  
*Street*      Calcutta, or such one or more of them as shall be at their  
*House*      Office at      o'clock on the      day of      18      , to  
*Quarter*      answer to a complaint made against you by the Collector of  
Assessments for non-payment of the Taxes imposed on you  
as owner of the premises mentioned in the margin, under  
the Provisions of Act X. of 1852, for the (      ) Quarter,  
that is to say,—the months of (      ) amount-  
ing to Rupees

*Commissioners' Office.*

No.

*Given under my hand,*      }  
this      day of      }  
18      .      }

A. B.

( D )

*Summons to give Evidence.*

To

Under the authority of Act X. of 1852, you are hereby summoned to appear personally before the Commissioners for the Improvement of the Town of Calcutta, or such one or more of them as shall be at their Office at      o'clock on the      day of      18

(Here set out the cause of Summons.)

*Commissioners' Office.*

*Given under my hand,*      }  
this      day of      }  
18      .      }

A. B.

(E)

ACT NO. X. OF 1852.

( E )

### *Distress Warrant.*

Town of } To  
Calcutta. } One of the Bailiffs for the Commissioners for the Improve-  
ment of the Town of Calcutta.

**Number** Whereas of in the said Town is this  
**No. of** day duly convicted before of the Commissioners for  
**Division** the Improvement of the Town of Calcutta, for that the said  
**Street** doth refuse or neglect to pay, and hath  
**House** not yet paid, the Taxes on houses, buildings, and lands men-  
tioned in the margin, to which he is assessed under the Provi-  
sions of Act X. of 1852, for the ( ) Quarter, that is to  
say, for the months of ( )  
amounting to the sum of Co.'s Rs. although  
the said sum has been demanded of him, and five days have  
lapsed since such demand ; This is to command you to distrain  
the Goods and Chattels of the said  
within the said Town, or any Goods and Chattels which you  
may find on the premises in respect of which the said Taxes  
are due, to the amount of Co.'s Rs.  
and such further sum as may be sufficient to defray the  
charges of making such distress ; and if within five days  
next after such distress, the said sum of Co.'s Rs.  
shall not be paid, together with such further sum as  
may be sufficient to defray the charges of taking and keep-  
ing such distress, to sell the said Goods and Chattels ; and  
having paid out of the money arising by such sale, the said  
sum of Co.'s Rs. to the Col-  
lector of Assessment for the said Commissioners, and hav-  
ing deducted the necessary charges of taking, keeping, and  
selling the said distress, to return the overplus, if any, on  
demand,

ACT No. X. OF 1852.

demand, to the person whom you shall find in possession of the said Goods and Chattels.

*Given under my hand  
and seal, this      day  
of                    18    .*      }      L. S.

*One of the Commissioners for the  
Improvement of the Town of Calcutta.*

( F )

*Inventory.*

<i>Quarter Number</i>	<i>An Inventory of the several Goods and Chattels distrain- ed by me</i>			<i>Bailiff,</i>	<i>No.</i>
<i>No. of Division</i>	<i>situated in</i>			<i>for the sum of Company's</i>	
<i>Street</i>	<i>Rupees</i>	<i>Annas</i>	<i>Pies</i>	<i>being Arrears of</i>	
<i>House</i>	<i>Assessment due up to the</i>			<i>day of</i>	
	<i>last, for Taxes under the Provisions of Act X. of 1852 (or being the amount of a penalty imposed on</i>			<i>by</i>	
	<i>of the said Commissioners, or Justices of the Peace as the case may be), with the costs and charges for enforcing payment of the same.</i>				

To

Take Notice, that I have this day distrained the several Goods and Chattels specified in the Inventory for Taxes under the Provisions of Act X. of 1852 (or being the amount of the said penalty), and that unless you pay the said sum, with the charges of distraining, into the Office of the Collector of Assessment, within five days from the date hereof, the said Goods and Chattels will be sold according to law.

<i>Arrears, Rs.</i>	<i>Costs,    ,</i>	<i>Co.'s Rs.</i>	<i>Witness my hand, this of</i>	<i>day</i>
				<i>18</i>
				<i>Bailiff.</i>

(G)

ACT No. X. OF 1852.

( G )

*Distress Warrant.*

Town of }  
Calcutta. }

To

One of the Bailiffs for the Commissioners for the Improvement of the Town of Calcutta.

Whereas A. B., of in the said Town is this day duly convicted before of the Commissioners for the Improvement of the Town of Calcutta, (*or Justice of the Peace, as the case may be,*) of the offence of (*here state the offence*) against the form of the Act X. of 1852 in that case made and provided, and was thereupon adjudged by that he the said A. B. had forfeited the sum of Rs. (*here state the amount*) for the offence ( ) aforesaid: And whereas the said A. B., being required to pay the said sum of Rs. (*here state the amount aforesaid*), hath not paid the same, but therein has made default: These are to command you to distrain the Goods and Chattels of the said A. B., which may be found within the said Town, to the amount of the said sum, and such further sum as may be sufficient to defray the charges of making such distress; and if within five days next after such distress, the said sum of Rs. (*here state the amount*), together with the reasonable charges for taking and keeping the said distress, shall not be paid, to sell the said Goods and Chattels, and having paid out of the moneys arising by such sale the said sum of Rs. (*here state the amount*) to the Collector of Assessments for the said Commissioners, and having deducted the necessary charges of taking, keeping, and selling the said distress, to return the overplus (if any) on demand, to the person whom you shall find in possession of the said Goods and Chattels.

Given under  
hand and seal, this }  
day of 18 . }

L. S.

*of the Commissioners for the Improvement of the Town of  
Calcutta, (or Justice of the Peace, as the case may be.)*

ACT No. X. OF 1852.

THIRD SCHEDULE.

*Table of Fees to be taken for Proceedings under this Act.*

	Rs. As.
For every Summons to pay .....	1 0

IN DISTRAINTS.

SUM DISTRAINED FOR.	FEE.	
	Rs.	As.
Under 5 Rupees, .. . . . .	1	4
5 and under 10 Rupees, .. . . . .	2	0
10 , " 15 , " . . . . .	2	8
15 , " 20 , " . . . . .	3	8
20 , " 25 , " . . . . .	4	4
25 , " 30 , " . . . . .	5	0
30 , " 35 , " . . . . .	5	8
35 , " 40 , " . . . . .	6	8
40 , " 45 , " . . . . .	7	12
45 , " 50 , " . . . . .	8	8
50 , " 60 , " . . . . .	10	0
60 , " 80 , " . . . . .	11	8
80 , " 100 , " . . . . .	13	0
Above 100 , " . . . . .	15	0

The above charge includes all expenses except when peons are kept in charge of property distrained, in which case 4 Annas must be paid daily for each man.

## ACT NO. XI. OF 1852.

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*Passed by the Governor General of India in Council on  
the 13th February 1852.*

*An Act for the Adjudication of Titles to certain Estates claimed to  
be wholly or partially Rent-free in the Presidency of Bombay.*

WHEREAS in the Territories of the Deccan, Kandeish, and Southern Mahratta Country, and in other Districts more recently annexed to the Bombay Presidency, claims against Government on account of Inams and other Estates wholly or partially exempt from payment of Land Revenue are excepted from the cognizance of the ordinary Civil Courts, and incapable of being justly disposed of under the Rules for the determination of Titles, and the Rules of Procedure contained in Chapters IX. and X. of Regulation XVII. of 1827 of the Bombay Code and their Supplements; and whereas it is desirable that the said claims should be tried and determined without further delay, It is declared and enacted as follows:

I. The Rules in Chapters IX. and X. of Regulation XVII. of 1827, and in Clause 1 of Regulation VI. of 1833 of the Bombay Code, do not apply to any of the Districts of the Bombay Presidency which were not brought under the General Regulations of Government by Regulation XXVIII. of 1827 of the Bombay Code; and no order hitherto passed

## ACT NO. XI. OF 1852.

regarding the continuance or resumption of lands in any of the said Districts held or claimed from Government as wholly or partially free of assessment, shall be liable to be questioned in any Court of Law, on the grounds of any interpretation or construction of the Law, which may be inconsistent with the declarations made and the rules prescribed by this enactment.

**II.** The Governor of Bombay in Council may appoint in any Zillah or other division of the Territories subject to the Presidency of Bombay, which were not brought under the General Regulations of Government by the said Regulation XXVIII. of 1827, an Inam Commissioner with so many Assistants, and such subordinate Establishment, as may be necessary for the purposes hereinafter mentioned.

**III.** The duties of each Inam Commissioner and his Assistants shall be discharged according to the Rules in Schedule A. annexed to this Act.

**IV.** In the adjudication of claims to exempt lands or interests therein, the titles of claimants shall be determined by the Rules in Schedule B. annexed to this Act.

**V.** Each Inam Commissioner and his Assistants shall have the same authority to procure the attendance of witnesses, and to take evidence, as now is, or from time to time may be, by Law vested in the ordinary Civil Courts ; and so far as concerns the penalties for not giving evidence, for false testimony, for resistance of process, contempts, and other like matters, connected with cases under cognizance by any one of the said Officers, his Office shall be held to be a Court of Civil Jurisdiction of the same authority as the superior Civil Court of the Zillah or District in which his Office from time to time shall be established. Provided that all complaints against, or appeals from the proceedings of the

Inam

ACT NO. XI. OF 1852.

Inam Commissioner or any of his Assistants, in exercise of the authority conferred on them respectively by this Section, shall be made under the second Rule of Schedule A. annexed to this Act, and shall not be cognizable by any other authority or in any other manner than as therein specified.

**VI.** Bribery, extortion, and generally all acts of abuse, or misapplication of authority, or other misconduct, committed by any Officer belonging to the Establishment of the Inam Commission, or temporarily employed therein under the provisions of this enactment, shall be punishable as criminal offences with fine and ordinary imprisonment without labour for a period not exceeding five years, and the receipt of a present, directly or indirectly, by any such Officer from any person against whom or in whose behalf he may be officially employed, shall be considered extortion. And no penalty or punishment adjudicated under this Clause shall preclude any other Civil prosecution to which the offender may be liable.

**VII.** No decision or order of the Inam Commissioner, or of any of his Assistants, or of the Governor in Council, under the provisions of this enactment, so long as the same shall be in force under such provisions, shall be questioned or avoided in any Court of Law; and no Commissioner or Assistant Commissioner, or other person acting under the provisions of this Act, shall be liable to be sued in any Civil Court for any act *bonâ fide* done or ordered to be done by him in pursuance of the said provisions.

SCHEDULE A.

*Rules for defining the Duties of each Inam Commissioner and his Assistants.*

1. The duty of the Inam Commissioner and his Assistants shall be to investigate, in the manner prescribed by this enactment, the titles of

## ACT NO. XI. OF 1852.

of persons holding or claiming against Government the possession or enjoyment of Inams or Jagheers, or any interest therein, or claiming exemption from the payment of Land Revenue, and generally to act according to the instructions of Government in all matters not specifically provided for in this enactment.

2. All orders of the Assistant Commissioners shall be appealable to the Inam Commissioner, who shall also have the authority of revising and of modifying, reversing or annulling, if necessary, their orders and proceedings, and the orders and proceedings of the Inam Commissioner shall be in like manner appealable to, and subject to modification, reversal, or annulment by the Governor of Bombay in Council, whose orders shall in every case be final.

3. The Inam Commissioner or his Assistants shall receive from the persons holding or claiming to hold lands or any interest therein exempt from the payment of Revenue, statements explaining the nature of the title by which the lands or interests are so held, and shall take and record the evidence offered in support of such statements.

4. These statements may be received, either directly by the Officers of the Inam Commission, or through the medium of the Revenue Authority of the Talooka in which the land or interest so held or claimed as exempt is situated, or in which the alleged proprietor resides, without any previous procedure, except a general invitation to such landholders of a District who shall hold or claim to hold lands exempt as aforesaid to state the nature of their titles.

5. But when such general invitation is not sufficiently attended to, a notice may be issued to any party holding or claiming to hold any lands or any interest therein wholly or partially exempt as aforesaid, requiring

## ACT NO. XI. OF 1852.

requiring him personally, or by his Agent, to shew his title. The notice issued in such cases shall state the nature of the investigation which is intended, and shall call upon the alleged proprietor of the exempt lands or interest held or claimed to be held exempt as aforesaid, to attend either personally or by an authorized Agent, at a specified place, and within a specified period, (which shall never be less than two months from the date of the notice being served,) to explain the nature of his title to hold such lands or interest exempt as aforesaid, and to produce all the evidence forthcoming to prove it. The notice shall further explain that a failure to comply with its terms will render the land, or interest to which it relates, liable to attachment.

6. The notice shall be served upon the party holding or claiming to hold the land or interest exempt as aforesaid, or, if his place of residence be not known, upon the person acting for him, or in default of such, upon the person in charge of the land or interest.

7. If such persons cannot be found, a notice shall be posted in the Office of the Native Revenue Officer of the District, and in the Chouree, or most public place of the village, where the land or interest under inquiry is situated, calling on any person who may claim as proprietor to appear, either personally or by his Agent, to prove his title within six months from the date of the notice, under penalty of the attachment of the land or interest, and on failure of the appearance of a claimant, the land or interest shall be liable to attachment.

8. The attachment provided for by Rules 5 and 7 shall be enforced by the Collector or Chief Revenue Authority of the District in which the land to which it relates is situated, at the written requisition of the Inam Commissioner or his Assistant, which shall be a sufficient warrant to the Collector for the attachment of the land, and for the

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collection of the rents accruing therefrom on account of Government during its attachment.

9. As soon as possible after the receipt of the statements in each District, and of the evidence by which they are supported, they shall be tested by the entries in the Government accounts and State records, and by any other evidence procurable, whether in favor of Government or of the claimants, and decisions shall then be passed on them as to the continuance, resumption, or full or partial assessment of the lands.

10. In cases where the notices provided for in Sections V. and VII. fail to procure the attendance of the persons to whom they are addressed, and no claimant appears to prosecute his claim, the Commissioner or Assistant Commissioner shall proceed to ascertain the facts of the case from such evidence as may be forthcoming or procurable, and shall pronounce such decision thereupon as to him shall seem just regarding the lands or interests to which the notices referred.

11. An attachment enforced under Rule 8 shall be removed by the Collector or Chief Revenue Authority by whom it was made, on receipt of a communication from the Inam Commissioner or his Assistant, certifying that he considers the attachment to be no longer necessary; but the rents collected from the land during its attachment shall in no case be restored to the alleged proprietor, except under the general or special instructions of Government.

12. Certified copies of decisions, made according to the provisions of Rule 9, shall be delivered as soon as possible after each decision is passed, to the persons on whose claims the decision shall have been pronounced, or their agents; and copies of all decisions made in the absence of any claimant, according to the provisions of Rule 10, shall be sent to the

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the Mamlutdar, or other Revenue manager of the talook in which the lands to which they relate are situated, who shall deliver them to the parties affected by them, should they be discoverable, or otherwise cause them to be publicly posted in the village to which the lands in question belong.

13. Decisions, affecting any lands or any interests therein, passed under this enactment, shall be carried into execution by the Collector or Chief Revenue Authority of the District in which the lands to which they relate are situated, at the requisition of the Inam Commissioner or his Assistant, in any manner which may, from time to time, be prescribed by the Governor of Bombay in Council.

14. In all cases where a person may be desirous of appealing against any decision of the Inam Commissioner or his Assistants, he shall apply by a petition, addressed to the Authority by whom, according to Rule 2, his appeal is cognizable, which petition shall be presented to such Authority within one hundred days from the date of the decree appealed against, a copy of which must accompany the petition of appeal, and no appeal which is not so made shall be admitted, without proof of the existence of a just and necessary cause for its not having been preferred in due time; and it is hereby provided, that no decree passed by the Inam Commissioner or any of his Assistants, shall be liable to be set aside for want of form in the proceedings, but only for matters affecting the justice of the decision.

### SCHEDULE B.

#### *Rules for the adjudication of Titles to Estates claimed as Inam or exempt from payment of Land Revenue.*

1. All lands held under a specific and absolute declaration by the

Regarding Inams already declared permanent by competent authority since the introduction of the present Government.

British Government, or any competent officer acting under it, that they were to be continued hereditarily or in perpetuity exempt, wholly or partially, from the payment

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payment of Revenue, are to be so continued according to the purport of such declaration.

**Provision 1st.**—If any question shall arise as to the competency of the officer to make or give such declaration as aforesaid, the Commissioner or Assistant Commissioner is to suspend his judgment, and report the circumstances of the case to the Governor of Bombay in Council, to whom a power is hereby reserved of determining finally whether such officer was competent to make or give such declaration, and the Commissioner or Assistant Commissioner, upon receiving the determination of the said Governor in Council, shall decide accordingly.

**2.** Any land held under a sunnud declaring it to be hereditary,

Regarding claims to personal Inams, not yet adjudicated under the present Government. shall be so continued according to the terms of the sunnud.

**Provision 1st.**—Provided that the grant was either made, or specifically recognized, by Authority competent to alienate Government Revenue in perpetuity, the question of which recognition and competency is to be referred to and determined by Government in the manner prescribed by Provision 1st, Rule 1.

**Provision 2nd.**—And provided that there be nothing in the conditions of the tenure which cannot be observed without a breach of the laws of the land, or the rules of public decency.

**Provision 3rd.**—And provided that the grant was not afterwards revoked or disallowed, or an alteration of its terms ordered or recognized by a competent authority.

**3.** All lands uninterruptedly held as wholly or partially exempt from assessment for a period of sixty years before the introduction of the

British

British Government, and then in the authorized possession of a grandson in male descent, or male heir of the body of such grandson of the original grantee, shall continue to be so held so long as there shall be in existence any male heir of the body of the person who was incumbent at the introduction of the British Government, tracing his lineage from such incumbent through male heirs only.

4. All lands, uninterruptedly held as wholly or partially exempt from assessment, for a period of forty years before the introduction of the British Government, and then in the authorized possession of a son, or male heir of the body of a son of the original grantee, are to be continued for one succession further than that of the person who was incumbent at the introduction of the British Government, that is, until the death of his last surviving son.

*Provision 1st.*—The authorized possession contemplated by Rules 3 and 4 does not involve the necessity of proving any specific authority from, or recognition by, the Government or Paramount Power. The mere entry of the holding, as continued in the genuine accounts of the District Officers (even in those not audited and passed by the Government of the time being), will be sufficient to bring it under the heads of “uninterrupted” and “authorized” so far as regards the purposes of this Rule; provided only that there are no entries in the Collectorate accounts, which shew that the holding of such lands exempt as aforesaid must have been unauthorized by the Government or Paramount Power.

*Provision 2nd.*—If there be not evidence forthcoming to disprove a claimant’s assertion that his holding has been undisputedly enjoyed for the number of years and descents requisite to fulfil the conditions of Rules 3 and 4 respectively, his prescriptive right shall be admitted.

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*Provision 3rd.*—The introduction of the British Government is to be reckoned from the time the East India Company became the Government or Paramount Authority over each District as regards its Inams. In the Territories ceded by or conquered from the Peshwa, therefore, whether Khalsat Mahals or Serinjams, &c., held exclusive of Inams, &c., the introduction of the British Government will date from the close of that of the Peshwa. But in case of the lapse of an independent principality, or of a jagheer more ancient than the Peshwa's Government, and over the Inams of which he did not claim any authority, the introduction of the British Government should be reckoned only from the date at which the general management of the Districts may have come into the hands of the Company, and in case any question shall arise as to the precise date when the East India Company became the Government over any district, or when the general management of any District came into their hands, such question shall be referred to and determined by Government in the manner prescribed by Provision 1st, Rule 1.

6. Land held as wholly exempt from payment of Revenue, or on partial assessment, the possession of which is not continuable under the preceding Rules, is to be resumed on the demise of the incumbent.

*Provision 1st.*—In case the incumbent at the time of the introduction of the British Government may have died, the permission to hold for life is to be extended to the person in whose name the land may be continued, when the investigation is commenced, if there be no fraud apparent, nor other reason for withholding this indulgence.

*Provision 2nd.*—When land is evidently held by fraud recently committed, (as when an Inam which was resumed under the late Government has been re-occupied under the present Government without authority,

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authority, or as when a pretended Inam is found to have originated since the introduction of this Government with the connivance of District or Village Officers), it shall be at once resumed, not being continuable under this or any of the preceding Rules.

### 7. All lands held for the support of Mosques, Temples, or similar

Institutions, of the permanent character of which there can be no doubt, are to be continued permanently, even though their permanent continuance may not have been expressly provided for when they were granted.

Regarding claims to Inams apparently permanent by the nature of the objects for which they are held, and not merely personal.

*Provisions 1st, 2nd and 3rd.*—The same as the corresponding Provisions of Rule 2 of this Schedule in those cases in which Title Deeds or other Records proving the circumstances of the original grant, or its specific recognition by competent authority, are forthcoming.

*Provision 4th.*—When there is no proof forthcoming to shew whether or not an Inam, coming under the Provisions of this Rule, was granted, or even specifically recognized by a competent authority, still, if it has been undisputedly enjoyed for a period of forty years before the introduction of the present Government, it shall be permanently continued, and enjoyment proved by the mere entry of the Inam, as continued in genuine accounts of the District Officers, (even in those not passed by the Government of the time being,) is to be considered sufficiently “uninterrupted” to give an Inam the benefit of this provision, if there be no entries in the Government accounts which shew that it must have been unauthorized by them.

*Provision 5th.*—If the forthcoming records do not go far enough back to test the existence of enjoyment of the duration contemplated

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contemplated in Provision 4th as establishing full prescriptive title in such Inams, still, if so far as they do go, they are not opposed to the claimant's assertion that sufficient enjoyment has taken place, the prescriptive title of the Inam shall be admitted according to his assertions, unless there be other evidence forthcoming to disprove them.

*Provision 6th.*—The peculiar advantages of this Rule shall not apply to the holdings of individuals in their own names for the performance of ceremonial worship, claims to which must be decided under the Rules for personal claims.

*Provision 7th.*—When claims of the denomination coming under this Rule are found to be unsupported by proof of original valid title, and are proved void of sufficient prescriptive enjoyment, they are to be adjudicated according to Rule 6.

8. All lands authorizedly held by an official tenure which it is evident from local usage was meant to be hereditary, and has been so considered heretofore, even though there be no sunnuds declaring it to be so,—for instance, Inams which form the authorized emoluments of any hereditary office, as of Kazees, Village Joshees, &c., and are not merely personal,—are to be continued permanently.

*Provisions 1st, 2nd and 3rd.*—The same as the corresponding Provisions of Rule 2 of this Schedule in those cases in which Title Deeds or other Records, proving the circumstances of the original grant, or its specific recognition by competent authority, are forthcoming,

*Provision 4th.*—When there is no proof forthcoming to shew whether or not an Inam, coming under the provisions of this Rule, was granted or even specifically recognized by competent authority, still if it has been

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been undisputedly enjoyed as an official and not merely personal holding from the earliest period to which the forthcoming evidence does relate, it shall be continued permanently as official emolument, unless the claimant's own statement renders this course improper.

***Provision 5th.***—The provisions of this Rule are not in any way to apply to emoluments continued for service performed to the State, as the Service Wuttuns of Desaees, Surdesaees, Nargowdas, Deshpandes, Patells, Coolkurnees, Mhars, Tulwars, whose claims are to be disposed of according to the Rules which are or may be established for the regulation of such holdings.

***Provision 6th.***—It is to be understood that mere length of enjoyment of land as Inam by an official person is not of itself sufficient to entitle a claim to be brought under this Rule.

***Provision 7th.***—If a holding, claimed under this Rule, be found incapable of permanent continuance under it, the claimant shall be allowed the advantages of any of the preceding Rules of this Schedule which may be applicable to his case.

9. On the resumption of any lands under the Rules of this Schedule,

Regarding Provision for the Widows of the last incumbents of resumed holdings.

a moiety, or other portion may be continued to the Widows of the last incumbents during their lives, in cases of proved poverty and destitution.

***Provision 1st.***—In the case of a holding, which is recognizable as an hereditary personal Inam, the widow of a proprietor who dies without surviving male issue, or other heirs to whom his Inam will of necessity descend, is by right his sole heir, and during her life, the Inam cannot be regarded as having lapsed to Government: it

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should therefore, in such a case, be continued undiminished during the widow's life.

**10. These Rules shall not be necessarily applicable to Jageers,**

Regarding the exception  
of certain tenures from the  
application of these Rules.

**Serinjams, or other tenures for service to Government,  
or tenures of a Political nature, the titles and continu-  
ance of which shall be determined as heretofore under  
such Rules as Government may find it necessary to issue from time to time.**

**11. Any of these Rules may be relaxed in favor of claimants under**

Regarding the modifi-  
cation and interpretation  
of these Rules.

**instructions from the Governor of Bombay in Council,  
in whom shall also be vested the power of interpre-  
ting the precise meaning of any of the Rules respecting**

**which a question may arise.**

## ACT No. XII. OF 1852.

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*Passed by the Governor General of India in Council, on  
the 20th February 1852.*

*An Act to repeal Act No. II. of 1848, and to confer certain powers  
on the Commissioners for the Improvement of the  
Town of Calcutta.*

WHEREAS by Section LXV. of Act No. X. of 1852 it is, among other things, enacted that certain funds therein mentioned should be applied by the Commissioners for the Improvement of the Town of Calcutta in cleansing, improving, and embellishing the said Town: And whereas it is expedient that the said Commissioners should be invested with further powers for the effectual accomplishment of the purposes aforesaid, It is hereby enacted as follows:

I. Act II. of 1848, and the Bye-Laws made in pursuance thereof, and the Regulation for the Good Order and Civil Government of the Settlement of Fort William in Bengal, passed in Council on the 28th day of October 1814, are hereby repealed. Act X. of 1852, repealing Act XVI. of 1847, shall not be construed so as to revive Act XXIV. of 1840.

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**II.** The said Commissioners may, subject to confirmation or disallowance by the Governor of Bengal, nominate, appoint and employ, respectively, such Surveyors, Inspectors, and other necessary Officers and Servants as may be necessary or proper for the execution of the powers hereby vested in them; and such Surveyors, Inspectors, Officers and Servants shall receive such salaries as to the Governor of Bengal shall seem meet.

**III.** The management and control over all the streets within the said Town of Calcutta, existing at the time of the passing of this Act, and of all parts of the said Town which shall hereafter become streets, and the pavements and other materials therein, and all erections and buildings, materials, implements or other things provided for the said streets by or under the authority of the Governor of Bengal, or by the Magistrates of Calcutta, or by the said Commissioners, and also the management and control of all public tanks, aqueducts and canals, and of all sewers and drains, whether public or private, now made or hereafter to be made within the said Town, are hereby vested in the said Commissioners for the purposes of this Act.

**IV.** The said Commissioners, by and with the consent of the Governor of Bengal, may lay out, make, build and construct streets, and may alter and widen narrow streets, and may turn, divert, discontinue or stop up streets, within the said Town, regard being had to the compensation of owners of lands which may be required to be vested in the said Commissioners for any such purposes, and of owners of lands which may be damaged or deteriorated in value by the turning, diverting, discontinuing, or stopping up of any such streets,—and in case of dispute, the amount of such compensation shall be ascertained and paid in the manner and according to the provisions

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provisions contained in Act XXII. of 1847, which is hereby declared to be applicable to all claims for compensation made in respect of any acts done by the said Commissioners under the authority of this Act. Provided always, that it shall not be lawful for the said Commissioners, or any other person, to make or lay out any new street, unless the same, being a carriage road, be at least 50 feet wide, exclusive of the drains at the sides thereof, or not being a carriage road, be at least 20 feet wide, exclusive of the drains at the sides thereof.

### V. The said Commissioners, with the consent and approbation of

the Governor of Bengal, shall pave, metal, and water such of the public streets existing in the said Town at the time of the passing of this Act, or at any future time, as they shall think fit; and it shall be lawful for

Power to Commissioners to pave and water streets, &c., erect pumps, &c., and make convenient tanks, &c.  
the said Commissioners to excavate and provide convenient tanks or runs of water through the said Town, and to sink wells, and lay, erect, and place pipes, gutters, conduits and pumps in any of the said streets, and may remove and alter the same when and in such manner the said Commissioners shall think proper.

### VI. The said Commissioners, by and with the consent of the said

Power to Commissioners to purchase lands, &c., for the purposes of this Act.  
the Governor of Bengal, may, by agreement or in conformity with the provisions of Act XXII. of 1847, purchase or take absolutely or on lease, for such terms as

they may think fit, any water-works, streams of water, lands, fixtures or other property which the said Commissioners may deem it necessary to purchase or take for any work or purpose which they are required or authorized to do and execute under this Act, or the said Act No. X. of 1852, and when the said Commissioners take and purchase any lands for the purposes of this Act otherwise than with the consent of the owners and occupiers thereof, they shall,

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in exercising the powers so given, be subject to the provisions and restrictions contained in the said Act No. XXII. of 1847; and the said Commissioners shall make to the owners and occupiers of and all other parties interested in any such lands taken for the purposes of this Act, full compensation for the value of the lands so taken, and for all damages sustained by such owners, occupiers and other parties, by reason of the exercise, as regards such lands, of the powers vested in the Commissioners by this Act; and the amount of such compensation shall be determined in the manner provided by the said Act No. XXII. of 1847, for determining questions of compensation with regard to lands purchased or taken under the provisions thereof; and all the provisions of the said Act No. XXII. of 1847 shall be applicable to determine the amount of any such compensation, and to enforce the payment or other satisfaction thereof.

### VII. The Commissioners, by and with the consent of the Governor

Power to Commissioners to sell lands, &c. of Bengal, may sell or dispose of any lands or other property vested in or acquired by them under the powers herein, or in the said Act No. XXII. of 1847, contained, which it may appear to the Commissioners may be properly sold or disposed of; and for completing and carrying any such sale of lands into effect, the Commissioners may make and execute a conveyance of the lands sold and disposed of as aforesaid unto the purchaser, or as he shall direct, and such conveyance shall be under the hands of three of the Commissioners, and under the seal of the Commissioners, and a receipt, under the hands of three of the Commissioners, shall be a sufficient discharge to the purchaser of any such lands for the purchase-money in such receipt expressed to be received, and the money to arise from such sale shall be applied to such of the purposes of this Act as the Commissioners shall think fit.

### VIII. The

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### VIII. The said Commissioners may from time to time, as they shall

Power to Commissioners  
to improve and cleanse or  
to discontinue drains, &c.

see fit, widen, deepen, embank, alter, arch over, amend, clean and scour out all or any of the sewers or drains within the said Town as may be necessary, and also cleanse and drain off into any sewers or drains, and fill up and level or otherwise abate all stagnant pools, ditches, tanks and other receptacles of foul water and filth existing within the said Town, whether the same be the private property of any person or persons or otherwise, and the said Commissioners, if they shall think fit, may take up, stop, fill in, and discontinue any sewers or drains which they shall deem useless or unnecessary; Provided always that the expenses incurred in respect of any such works done or executed on the private property of any person, if not defrayed by such person on demand thereof, may be recovered by distress and sale of the goods and chattels of such person, and any two of the said Commissioners may issue their warrant of distress accordingly.

### IX. Every Commissioner and the Surveyor to the Commissioners,

Power to Commissioners  
to enter, examine, and lay  
open houses, lands, &c., for  
that purpose. Compensation  
in certain cases.

with such subordinate Officers or persons as they may require shall, when it shall be necessary or convenient for the purpose of making any survey or examination of any sewers or drains, or of making or repairing or cleansing any sewers, drains, or works within the said Town, or of carrying into execution any of the powers entrusted to the Commissioners by this Act, or Act No. X. of 1852, have full power and authority, at all reasonable hours in the day-time, to enter, examine, and lay open, or to direct their subordinate Officers to enter, examine, and lay open, any house, building or other erection, or any lands, without being liable to any action at Law or suit in Equity, or any other legal proceedings or molestation whatsoever for or on account of such entry, examination, or works, or of anything done or to be done in any part of such house, building, erection, or land in pursuance of this Act; Provided always, that except

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in cases of emergency, none of the persons above mentioned shall enter, examine or lay open any house, building or other erection, or lands which may be occupied at the time, unless with the consent of the occupier thereof, without previously giving the said occupier twenty-four hours' notice of their intended entry and of the object thereof; Provided also, that compensation shall be made for any damage occasioned by such entry and works to all persons other than the owners and occupiers of any land or building in respect of which any private drain or sewer, or the state of drainage shall be inspected, cleansed, or repaired, and other than the owners or occupiers of any premises where any nuisance may exist, and other than the person who may have caused such nuisance; and provided also, that in case no nuisance shall be found to exist in or on the house, building or other erection, or lands so entered, examined, and laid open as aforesaid, the said Commissioners shall, out of the rates and taxes aforesaid, cause the said house, building, or other erection, or lands, to be restored to the same state and condition in all respects as the same were in before they were so entered, examined, or laid open.

### X. If any house, building, or wall, or anything affixed thereon,

Power to Commissioners  
in case of ruinous or  
dangerous buildings.

within the limits of the said Town, be deemed by the Commissioners or their Surveyor to be in a ruinous state, or likely to fall, and also dangerous to passengers

or the occupiers of neighbouring buildings, such Surveyor shall immediately cause a proper board or fence to be put up for the protection of passengers, and shall cause notice in writing to be given to the owner of such house, building, or wall, or other thing, if he be known and resident within the said limits, and shall also cause such notice to be put on the door or other conspicuous part of the said premises, or otherwise to be given to the occupier thereof (if any), requiring such owner or occupier forthwith to take down, secure, or repair such house, building, wall, or other thing, as the case shall require; and if such owner or occupier

do

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do not begin to repair, take down, or secure such house, building, wall, or other thing, within the space of three days after such notice has been given or put up as aforesaid, and complete the same as speedily as the nature of the case will admit, the said Commissioners shall, with all convenient speed, cause all or so much of such house, building, wall, or other thing, as shall be in a ruinous condition, or likely to fall, and also dangerous as aforesaid, to be taken down, repaired, rebuilt, or otherwise secured in such manner as shall be requisite ; and all the expenses of putting up every such fence, and of taking down, repairing, rebuilding or securing such building, wall, or other thing, shall be paid by the owner thereof, if such owner can be found within the said limits ; and if, on demand of the expenses aforesaid, he neglect or refuse to pay the same, then such expenses may be levied by distress on the goods and chattels of the owner of the said house, building, wall, or other thing, and any two Commissioners may issue their warrant of distress accordingly.

XI. If any such house, building, wall, or other thing, or any part of the same, be pulled down by virtue of the powers aforesaid, the Commissioners may sell the materials thereof, or so much of the same as shall be pulled down, and apply the proceeds of such sale in payment of the expenses incurred in respect of such house, building, wall, or other thing, and the Commissioners shall restore any overplus arising from such sale to the owner of such house, building, wall or other thing, on demand ; nevertheless the Commissioners, although they sell such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale, as are hereinbefore given to them for compelling the payment of the whole of the said expenses.

XII. The

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**XII.** The said Commissioners, by and with the consent of the Governor of Bengal, may construct, make, and lay, or cause

Power to Commissioners  
to make canals, aqueducts,  
sewers, drains, &c.

to be constructed, made, and laid, such reservoirs, canals, aqueducts, channels, tanks, sewers, drains, bridges, banks, conduits, machinery, engines, waste-gates, stop-gates, stop-cocks, sluices, tunnels, water-pipes, and other works, as shall, in their opinion, be necessary and proper for obtaining water and supplying the same to the said Town, and for the effectual draining and cleansing of the said Town, and for the properly flushing and cleansing out such sewers in, under, or across all or any of the streets therein, whether dedicated to the public use or not, and if needful through and across all under-ground cellars, and vaults, which they may find under any of the said streets, doing as little damage as may be ; and also to cause such and so many rings and openings to be made or left in the sides of the said sewers, as will be sufficient for the making or branching any drain or drains from any or all of the houses built, and which may probably be built, adjoining or near thereto, into any of the said sewers, as the said Commissioners shall think necessary for that purpose ; and in case it shall be found necessary for completing any of the aforesaid works to build, carry, or continue the same in, into, through, or over any enclosed lands, or other place not being a public way, it shall be lawful for the said Commissioners to build, carry, or continue the same in, into, through, or over the said lands or other places accordingly, and the said Commissioners shall cause such sewers to communicate with and empty themselves into any public river, stream, canal, or watercourse, whether within or without the said Town, or shall cause the refuse from such sewers to be conveyed by an appropriate channel to the most convenient site for its deposit, collection, and sale, and its application as manure for agricultural purposes or otherwise, as they shall deem most expedient, but so that the same shall in no case become a public nuisance or annoyance to the neighbourhood.

**XIII.** For

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### XIII. For the purpose of constructing any aqueducts for bringing

Power to Commissioners  
when constructing drains  
and aqueducts without  
the jurisdiction of Supreme  
Court.

water to the town of Calcutta from any place without the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature, or for the purpose of making sewers or drains to communicate with or empty

themselves into any public sewer, lake, stream, canal, or water-course without the said limits, it shall be lawful, whenever a plan for any such aqueduct, sewer, or drain shall have been approved by the Governor of Bengal, for every Commissioner, and for the Surveyor and Secretary to the Commissioners, with such Assistants as they may require, to exercise, in the construction of such aqueduct, sewer, or drain throughout the line of country through which the said aqueduct, sewer, or drain is to run, all the powers which by this Act it is lawful for them to exercise within the said local limits, and which may be necessary for the construction of such aqueduct, sewer, or drain, without being subject to any action or molestation whatever for so doing ; and it shall also be lawful for any Magistrate of any district through which the said aqueduct, sewer, or drain is to run, in furtherance of the construction of such aqueduct, sewer, or drain, to do such acts within the limits of his own district as it is by this Act lawful for a Magistrate of the Town of Calcutta to do, in furtherance of any work to be executed by the said Commissioners within the said local limits.

### XIV. It shall be lawful for the said Commissioners, instead of exe-

Power to Commissioners  
to execute works by con-  
tract.

cuting any of the works which by this Act they are

authorized to execute by themselves, their servants, and assistants, to execute the same by contract with any

individual or company who may be willing to undertake the same, and in that case it shall be lawful for such individual or company to exercise and enjoy all the powers and privileges which by this Act it is lawful for the said Commissioners to exercise and enjoy in the execution of any such

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works. Provided always, that no Commissioner, or Officer, or servant of the Commissioners, shall be in any wise concerned or interested in any contract or work made with or executed for the Commissioners, and if any such Commissioner, or Officer, or servant, be so concerned or interested, or shall, under color of his office or employment, exact, take, or accept any fee or reward whatsoever, other than his proper salary, wages, fees, and allowances, he shall be incapable of afterwards holding or continuing in the office of Commissioner, or any office or employment under the Commissioners, and shall forfeit and pay the sum of Company's Rupees five hundred, which may be recovered by any person, with full costs of suit, by action of debt.

### XV. The said Commissioners may, with the consent and approba-

Power to Commissioners to contract for supply of water, and to grant leases for that purpose. tion of the said Governor, contract and agree with any person for supplying the said Town, or any part thereof, with water, and may also, with the like consent and

approbation, grant to any person contracting to supply the said Town, or any part thereof, with water, a lease, for any term not exceeding twenty-one years, of any water-works, machinery, streams, waters, lands, tenements, easements, rights, privileges, and advantages, belonging to or acquired by, or which may belong to or be acquired by or be vested in the said Commissioners, under any of the powers or authorities in this or any other Act contained, so as to enable such person or persons so contracting the more effectually and efficiently to procure and supply water in pursuance of any such contract or agreement; and every such lease so to be granted by the said Commissioners may be made subject to such conditions and stipulations as to the supplying water, for the purposes of this Act, or any of them, as may be agreed upon between the respective parties thereto. Provided always, that no lease or contract made in pursuance of the powers hereinbefore contained shall be valid or effectual, for any purpose whatsoever, unless

the

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the said Governor's approval of the same shall be testified by writing, endorsed on such lease or contract, under the hand of the Secretary to the Government of Bengal.

XVI. It shall be lawful for the said Commissioners, their Secretary, Surveyor, or other Officer, subject to the restrictions in this Act contained, to enter upon the lands of any corporation or person adjoining to, or being within the distance of one hundred yards of the works by this Act authorized to be made, or any part thereof, for the purpose of depositing upon such lands, or any part thereof, any soil, gravel, sand, lime, brick, stone, or other materials, or for any other purposes connected with the formation of the said works, without making any previous payment, tender, or deposit, the said Commissioners, their Secretary, Surveyor, or other Officer, doing as little damage as may be in the exercise of the several powers hereby granted to them, and making compensation for such temporary occupation or temporary damage of the said lands to the owners and occupiers thereof, from time to time, and as often as any such temporary occupation shall be taken or any such temporary damage done, and making compensation to the owners also for the permanent injury (if any) to such lands; and in case the parties differ respecting the amount of the compensation, or the respective shares of several claimants of compensation, then and in every such case the said disputes respectively shall be settled and adjusted by arbitration, or by the verdict of a Jury, summoned and assembled in manner provided in Act No. XXII. of 1847. Provided always that before the said Commissioners make any such temporary use as aforesaid of the lands adjoining or lying near to the said works, they shall give fourteen days' notice of such their intention to the owners and occupiers of such lands, and shall separate and set apart by sufficient fences so much of the lands as shall be required to be used as aforesaid from the other lands adjoining thereto.

XVII. The

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### XVII. The said Commissioners, when executing any works here-

Commissioners when executing works to provide convenient roads, drains, &c., for use of adjoining lands when present roads, &c., are stopped, &c.

by authorized to be made, shall, at their own expense, make and provide a sufficient number of convenient roads, ways, watering-places, wells, water-courses, drains, and channels for the irrigation and for the use of the adjoining lands, and for irrigating the same in those parts where the present roads, ways, watering-places, wells, water-courses, drains, and channels, shall and may be taken away or interrupted, injured, or rendered inconvenient or useless by reason of the execution of the said works, and in case of any difference arising between the said Commissioners and the owners of such adjoining lands, such difference shall be settled by arbitration, or by the verdict of a Jury summoned and assembled in manner provided in Act No. XXII. of 1847.

### XVIII. The said Commissioners shall make full compensation

Power to Commissioners to make compensation out of rates, &c.

out of the rates and taxes to be levied by them to all persons sustaining any damage by reason of the exercise of any of the powers vested in the Commissioners, or their Officers or servants, under and by virtue of this Act.

### XIX. It shall be lawful for the said Commissioners to direct any

Power to Commissioners to prosecute in certain cases.

prosecution before any Court or Justice of the Peace for any public nuisance whatsoever which shall be permitted, suffered, or committed within the said Town, and to order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this Act, and to direct and order the expenses of such prosecutions and other proceedings to be paid and borne by and out of the funds placed at their disposal under the provisions of this or any other Act.

### XX. It

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**XX.** It shall be lawful for the said Commissioners, if they shall not think fit to take any other proceedings prescribed by

Power to Commissioners  
to prefer bill of indictment  
in certain cases.

this Act, to prefer any bill of indictment or information, or to take any other proceedings against any person who shall obstruct or molest the said Commissioners, or their Secretary, Surveyor, or other Officer or servant, or any workman or other person employed by them in the performance and execution of their or his duty, under or by virtue or in consequence of this Act, or who shall steal, take, or carry away, or wilfully deface or injure any property, article, or thing belonging to the said Commissioners, and in every such case it shall be sufficient to state generally the property, article, or thing, in respect of which such proceeding shall have been taken, to be the property of the said Commissioners.

**XXI.** It shall be lawful for any of the Commissioners, their Secre-

Power to Commissioners  
to arrest unknown offenders  
without warrant.

tary, Surveyor, Inspectors, Overseers, or any servants or persons employed by them, and for any Inspector of

Police or Policeman employed in the said Town, and such other person or persons whom he or they shall call to his or their assistance, without any summons or warrant, or other authority than this Act, to seize and detain any unknown person who shall commit any offence against the provisions of this Act, and to take him immediately to a Police Station, where he shall be detained in default of Bail until he can be taken before any Justice of the Peace, who is hereby required to proceed and act with respect to such offender according to the provisions of this Act.

**XXII.** The Commissioners, or any one of them, or any person

Power to Commissioners  
to enter and inspect bazaars,  
slaughter-houses, &c., and  
to seize unwholesome arti-  
cles exposed for sale.

appointed by them for that purpose, may at all reasonable times, with or without assistants, enter into and inspect any market, building, shop, stall, or place, kept

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or used for the sale of butcher's meat, poultry, fish, or vegetables, or as a slaughter-house, and may examine any animal, carcase, meat, poultry, game, flesh, fish, or vegetables which may be therein, and in case any animal, carcase, meat, poultry, game, flesh, fish, or vegetables appear to be intended for the food of man, and to be unfit for such food, may seize, remove, and destroy the same at the expense of the owner thereof, or the owner, occupier, or farmer of any such public market, bazar, or slaughter-house, or private shop or stall within the Town, wherein the same shall be exposed or allowed to be exposed for sale.

### XXIII. The Commissioners or their Surveyor shall have full power

Power to Commissioners to remove obstructions in streets.

and authority to remove or order the removal of any wall, fence, rail, post, or other obstruction or encroachment in any street, or in or over any drain, sewer, or aqueduct within the said Town, whether the proprietary right to such street, drain, sewer, or aqueduct shall be in dispute or not; Provided

always that nothing in this Act shall be construed to give the said Commissioners or their Surveyor power to remove such wall, fence, or other obstruction after the decree or order of any competent Court has declared the land, walled, fenced, or railed in, to be private property.

### XXIV. When any private tank, or low marshy ground, shall appear

Power to Commissioners to fill up unwholesome tanks.

to the Commissioners to be offensive to the neighbourhood or unwholesome, it shall be lawful for the said

Commissioners to require, by notice in writing, the owner thereof to cleanse or fill up the same, and if the said tank shall remain uncleansed or not filled up for seven days after such notice, it shall be lawful for the said Commissioners to enter into and upon the adjoining lands, and to cleanse or fill up the said tank as they shall think fit, and the expense incurred thereby shall be paid by the owner of such tank, to be recovered in manner hereinafter mentioned.

### XXV. The

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**XXV.** The Commissioners may affix on or to the wall of any house or compound, or in or to any wall within the said Town, as they shall think fit, any board or metal plate to indicate the name of the street in which such house, compound, or wall is situate, or any lamp for the purpose of lighting the street.

**XXVI.** It shall be lawful for the said Commissioners or their subordinate Officers, as they shall think fit, to kill and destroy, or to order to be killed and destroyed, all dogs that may be found loose in the said streets, and not accompanying their owners or some person in charge of them.

**XXVII.** The said Commissioners shall, so far as the funds at their disposal will admit, keep in good and sufficient repair every street now or at any future time existing in the said Town.

**XXVIII.** When any of the streets, sewers, or drains in the said Town are being made, or shall be under repair, the Commissioners or their Surveyor, or other subordinate Officer, shall take proper precautions against danger by shoreing up and protecting the adjoining houses, and shall fix and place, or cause to be fixed and placed such and so many bars, chains, or posts across or in any of the said streets to prevent the passing and repassing of carriages, carts or other vehicles, cattle or horses, during the time of such works and repairs being carried on as shall be necessary, and the said Commissioners and their said Surveyor shall cause any sewer or drain or other works, during the construction or repair thereof by them, to be well and sufficiently lighted during the night to prevent accidents.

**XXIX.** The

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**XXIX.** The said Commissioners, so far as the funds at their disposal will admit, shall provide lamps for lighting such parts of the said Town as the said Commissioners shall consider to require the same, and shall keep the said lamps in fit order for public use, and shall keep and employ a sufficient number of persons to cleanse, prepare, repair, and light the same, and shall also from time to time, as shall be required, increase or otherwise alter the number and situation of the said lamps, as to them shall appear necessary for the lighting of the said town.

**XXX.** The said Commissioners and their said Surveyor and other Officers shall cause all the public streets of the said Town, together with the foot-pavements or foot-paths therein, from time to time to be properly swept and cleansed, and all dust, dirt, soil, ashes, rubbish and filth of every sort which may be found thereon to be collected and removed therefrom at convenient hours and times, and shall cause all or any of the privies, cess-pools, and drains within the said Town to be cleansed and emptied in a sufficient and proper manner by the owners or occupiers of the premises; and the said Surveyor, or other subordinate Officer of the Commissioners, shall give such orders and directions to the owners and occupiers aforesaid as to the said Surveyor or other Officer as aforesaid, acting under the orders and control of the said Commissioners, shall appear proper and necessary, and the said Commissioners may, in their discretion, order and direct where, and in what places, and how, and in what manner, the dust, dirt, soil, night-soil, ashes, rubbish and filth collected in the said Town shall be deposited and disposed of.

**XXXI.** The owners of any private drains in the said Town shall by providing proper traps or other coverings, or by ventilation, or by such other ways and means as shall be practicable

Owners to prevent effluvia from drains, &c.

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practicable for that purpose, prevent as far as possible the effluvia of sewers and drains from exhaling from gully-holes, gratings, or any other openings whatsoever of drains or sewers in streets or other places, and in case the owner of any private sewer or drain shall neglect or delay so to do, the Surveyor of the said Commissioners shall give him notice to prevent as far as possible the effluvia of such sewer or drain from so exhaling, and if the same shall not be done by such owner within ten days after such notice shall have been given to him, the said Surveyor shall forthwith provide and apply proper traps or other coverings, or such other means as aforesaid, so as effectually to prevent such effluvia from exhaling, and the expense incurred thereby shall be paid by the owner of such sewer or drain, to be recovered in manner hereinafter mentioned.

### XXXII. If upon the representation of the Surveyor of the Com-

Commissioners to issue certificates prohibiting improper burial-places. missioners, and after inquiry by such other ways and means as the Commissioners may think fit to direct,

the said Commissioners shall certify, (such certificate to be published in the *Calcutta Gazette* and in one of the English and Bengal-lee newspapers respectively usually circulated within the Town,) that any burial-ground situated within the said town is in such a state as to be dangerous to the health of persons living in the neighbourhood thereof, or that any church or other place of public worship within the Town is dangerous to the health of persons frequenting the same by reason of the state of the vaults or graves within the walls of or underneath the same, and that sufficient means of interment exist within a convenient distance from such burial-ground, church, or place of public worship, it shall not be lawful, after a time to be named in such certificate, to bury or permit or suffer to be buried any further corpses or coffin in, within, or under the ground, church, or place of worship to which the certificate relates, except in so far as may be allowed by such

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certificate, and whosoever after notice of such certificate buries or causes, permits, or suffers to be buried any corpse or coffin contrary to this enactment, shall for every such offence be liable, on conviction before a Justice of the Peace, to a penalty not exceeding Company's rupees five hundred.

### XXXIII. No vault or grave shall be constructed or made within

No vault or burial-place  
henceforth to be constructed  
without leave of Com-  
missioners.

the walls of or underneath any church or other place of public worship built in the said Town after the passing of this Act, and no burial-ground shall be made or formed within the said Town after the passing of this Act without the consent of the Commissioners first had and obtained, and whosoever shall bury or cause, permit, or suffer to be buried any corpse or coffin in any vault, grave or burial-ground constructed, made, or formed contrary to this enactment, shall for every such offence be liable, on conviction before a Justice of the Peace, to a penalty not exceeding Company's rupees five hundred.

### XXXIV. No writ or process shall be issued out against or served

No writ to be sued out  
against them till after one  
month's notice, &c., action  
to be brought in three  
months; Commissioners  
may tender amends.

upon any Commissioners or any Secretary, Surveyor, or other Officer or person whomsoever, acting under the direction of the Commissioners for any thing done or intended to be done under the powers of this Act, until the expiration of one month next after notice in writing shall have been delivered to him or left at his office or place of abode, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff, and of his attorney or agent in the cause, and upon the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action except such as is stated in the notice so delivered, and unless such notice be proved, the Court shall find for the defendant, and every such action shall be brought or commenced within three calendar months

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months next after the accrual of the cause of action, and not afterwards, and if any party shall have committed any irregularity, trespass, or other wrongful proceedings in the execution of this Act or by virtue of any power or authority hereby given, and if before action brought in respect thereof such party shall make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action when brought, and if no such tender shall have been made, it shall be lawful for the defendant in such action, by leave of the Court where such action shall be pending, at any time before issue joined, to pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

### XXXV. No matter or thing done, or contract entered into by the

Commissioners and their  
servants not to be personally liable when act done  
*bond fide.*

Commissioners, or any one of them, or by any Secretary, Surveyor, or other Officer or person whomsoever, acting under the direction of the Commissioners, shall,

if the matter or thing were done, or the contract were entered into *bonâ fide* for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim, or demand whatsoever, and any expense incurred by any such Commissioners, Secretary, Surveyor, or other Officer or person acting as last aforesaid, shall be borne and repaid out of the funds under the control of the Commissioners.

### XXXVI. All the streets existing within the said Town at the time

Streets, drains, filth, &c.,  
the property of Commissioners as Trustees.

of the passing of this Act, and all parts of the said Town which shall hereafter become streets, and also the pavements, stones and other materials therein, and all erec-

tions and building materials, implements or other things provided for the said streets, by or under the authority of the Government of Bengal, or by the Magistrates of Calcutta, or by the said Commissioners, and also

all

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all public sewers and drains within the said Town, together with all works, materials and things therewith connected and belonging, existing in the said Town at the time of the passing of this Act, or which shall hereafter be constructed and made therein by the said Commissioners or otherwise, and also all canals, aqueducts, conduits, tunnels, water-works, cisterns, pumps, pipes, tanks, reservoirs and wells which now are or shall hereafter be provided or lawfully applied to public use, and which are not the property of any private person, together with all buildings, engines, works, materials and things therewith connected, existing in the said Town at the time of the passing of this Act, or which shall hereafter be constructed and made therein at the costs of the said Commissioners or otherwise, and also all lands surrounding and belonging to public tanks and slips of ground alongside of any street, drain or aqueduct not the property of any private person, and also all lands belonging to the late Lottery Committee and not legally appropriated, and also all dirt, dust, dry and liquid filth, ashes and rubbish to be collected from the streets, houses, privies, sewers and cess-pools and elsewhere within the said Town shall be the property of and are hereby vested in the said Commissioners as Trustees for the purposes of this Act.

### XXXVII. Nothing in this Act contained shall be construed to render lawful any act or omission on the part of any person

Act not to exempt parties guilty of nuisance from prosecution or action.

which is, or but for this Act would be deemed and ad-

judged to be a nuisance at common Law, nor to exempt

any person guilty of a nuisance at common Law, from prosecution or action in respect thereof. Provided always, that if any person convicted of an offence under this Act, shall have paid the whole amount adjudged to be paid under such conviction, and the costs thereof, or shall have suffered imprisonment in respect of such offence, in every such case he shall be released from all further or other criminal proceedings for the same offence.

### XXXVIII. It

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### XXXVIII. It shall be lawful for any person, at his own expense,

Parties may make  
branch drains into public  
sewers, as Surveyor of  
Commissioners shall order.  
Penalty for offences against  
this Section.

to make or branch any drain into any of the sewers vested in the said Commissioners, or authorized to be made by virtue of this Act, or otherwise acquired by the said Commissioners, such drain being made of

such a size and in such a manner of communication in all respects as the said Surveyor of the said Commissioners shall direct, and for that purpose to take up and remove with the permission of the Commissioners so much of the pavement and other materials of any street as may be required, unless the said Commissioners shall consent and agree, which they are hereby authorized to do, to form so much and such portion of such drain as shall lead from the point of communication in such sewer to the extremity of such street, and in case any person shall make or branch any drain into any of the said sewers so vested in the said Commissioners, or authorized to be made, under and by virtue of this Act, of a different size or in a different manner and form of communication than shall be directed or appointed by the said Surveyor, every person so offending shall, for every such offence, forfeit and pay, on conviction before a Justice of the Peace, a sum not exceeding fifty rupees, and in default of payment shall be imprisoned for any period not exceeding one month, and the said Justice shall order the said person so offending to alter such drain as required by the said Commissioners within ten days, and in default the said Commissioners shall, at the expense of the maker of such drain, alter or destroy the same as they shall think fit, and in case the expense of making such alteration or destruction shall not be paid by the owner or maker of such drain, the expense incurred thereby shall be recovered in manner hereinafter mentioned.

### XXXIX. It shall be lawful for the said Commissioners to contract

Commissioners may con-  
tract with owners to make  
such drains at their expense.

and agree with the owners of any houses or other tenements within the said Town, that any drains required

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to be constructed and made by such owners shall be constructed and made by the Surveyor of the said Commissioners, and the cost price of making such drains, (as certified by the said Surveyor of the said Commissioners,) shall be repaid by such owners to the said Commissioners, and in default of such payment the same may be recovered in the manner hereinafter provided.

### XL. Before beginning to dig or lay the foundations of any new

Notice to be given to  
Commissioners before any  
new sewer or building is  
commenced to be built, as  
Surveyor shall direct.

house, building, or wall within the said Town, or to rebuild any house, building, or wall therein, contiguous or near to any street, and not being within the compound wall of any premises, and also before making any

sewer or drain for the purpose of draining water directly or indirectly from any land or tenement into any sewer under the jurisdiction of the said Commissioners, fourteen clear days' notice in writing shall be given to the Secretary to the said Commissioners by delivering the same to him or leaving it at his office by the person intending to build or rebuild such house, building, or wall, or to make such sewer or drain; and every foundation of any such house, building, or wall, and the drains within the same, shall be laid at such level as the Surveyor of the said Commissioners shall direct, and so as that no part of the said house, building, or wall shall project or encroach into or over the adjoining street, drain, or aqueduct, and so as that the said drains may be properly built with reference to the adjoining public drains, and every such branch drain shall be made in such direction, manner, and form, and of such materials and workmanship as the said Surveyor shall order, and the building or rebuilding of any such house, building, or wall shall be under the survey and control of the said Commissioners and their Surveyor so far as may be necessary to prevent any projection or encroachment in or over any street, drain, or aqueduct, and to insure that the level of the drains within such house, building, or wall shall be properly built with reference to the

public

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public drains ; and in default of such notice as aforesaid, or if such building or drain shall be begun, or made without, or in any respect contrary to, any order of the said Surveyor, or of the provisions of this Act, it shall be lawful for the said Commissioners to cause such building to be demolished, and to cause such drain to be re-laid, amended, destroyed, or re-made as the case may require, and to cause the expenses thereof to be levied and re-paid to them from and by the owner thereof in manner hereinafter provided.

**XLI.** Every person upon conviction before any Justice of the Peace, Penalties for certain offences in the streets. on the testimony of one or more credible witnesses, shall be liable to a penalty of not more than fifty rupees, or in default of payment thereof, to imprisonment, with or without hard labour, for any term not exceeding one month, who, within the limits of the said Town, shall commit any one of the following offences ; (that is to say,)

1. Every person who shall throw or put, or cause or order or allow

For throwing dirt, &c., on streets. his servants to throw or put, or from whose premises

shall be thrown or put, any dirt, dung, mud, dust, ashes, garden or stable refuse, or rubbish of any kind, or the carcase of any dog or other animal, or any flesh or other part of an animal, or any animal matter, upon any of the public streets, except between the hours of midnight and seven in the morning.

2. Every person who shall throw or put, or cause or allow to be

For throwing bottles, glass, &c. thrown or put, or from whose premises shall be thrown

or put, any broken bottles, glass, china or crockery-ware upon or into any street, drain or aqueduct.

3. Every person who shall keep, or allow to be kept, for more than

For keeping dirt, &c., in houses. twenty-four hours, any dirt, dung, mud, dust, bones,

ashes, night-soil, or other rubbish of a perishable and

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and noisome kind in or upon any house, out-house, yard, or ground occupied by him.

**4. Every person being the owner or occupier of any private tatty,**

For neglecting to keep drains, &c., clean. drain, sewer, cesspool, tannery, or other receptacle of filth, who shall neglect or refuse to keep the same in a clean and proper state, or to employ proper means to remove any noisome smell or the filth therefrom, or who shall expose the contents of such privy to the view of the passers by in the street.

**5. Every person being the owner or occupier of any house, hut,**

For allowing house or ground to be in a filthy or unwholesome state. building, or lands whether tenantable or otherwise, who shall suffer the same to be in a filthy and unwholesome state, or overgrown with rank and noisome vegetation.

**6. Every person who shall cause or allow the water of any sink,**

For allowing offensive liquids to drain into tanks or water-works. sewer, or drain or other offensive liquid matter belonging to him, or running through or being on his land, to run, drain, or be carried into or upon any of the streets, tanks, aqueducts, or reservoirs belonging to the Commissioners, or who shall commit or cause any act whatsoever whereby the water provided for the domestic use of the inhabitants of the Town shall be in any way fouled or corrupted, or who shall throw or put, or cause or order or allow his servants to throw or put, or from whose premises shall be thrown or put, any dirt, dung, mud, dust, ashes, night-soil, garden or stable refuse or other rubbish, into any of the public sewers or drains, or into any reservoirs, tanks, aqueducts, or other water-works belonging to the Commissioners.

**7. Every person who shall have or keep any common tatty, privy,**

For keeping common privy without licence. or urinal, on any ground owned or occupied by him within the Town, without a licence first had from the

Commissioners

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Commissioners who are hereby authorized to grant the same under the hand of their Secretary; such licence shall be granted for one year, and shall be renewed or not every year according to the discretion of the Commissioners.

8. Every person being the owner or farmer of any licensed tatty, privy,  
For keeping common  
privies filthy. or urinal within the said Town who shall suffer such tatty, privy, or urinal to be kept in a filthy and unclean state, or shall neglect to employ proper means for cleaning and regulating it.

9. Every person who shall wantonly or wilfully destroy, injure, or  
For destroying lamps or  
street-boards, &c. deface any of the lamps or lamp-posts in the said streets, or extinguish any light therein, or abstract or take away from any of the said lamps any oil or other matter or thing therein, or any part thereof, without the order of the said Commissioners or of their said Surveyor, or who shall wantonly or wilfully destroy, injure, or deface any board bearing on it the name of any street or the number of any building or land within the said Town, or any notice of the said Commissioners fixed or posted up in any place.

10. Every person who shall displace, take up, or make any alteration in the pavements, flags, stones, fences, posts, or other materials of any foot or carriage-way in any street, without the consent in writing of the said Commissioners or of their said Surveyor, or who shall cause any obstruction to or make any encroachments upon any street or upon any sewer, drain, aqueduct, or space of ground alongside a street, drain or aqueduct.

11. Every person who shall take down or remove any fences or  
For injuring, &c., any  
boards, &c., erected by  
Commissioners. boards, or any bars, chains, or posts erected by the said Commissioners, or extinguish any light attached to or connected

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connected with the said fences, boards, bars, chains, or posts without the authority or consent of the said Commissioners or their Surveyor.

12. Every person who shall carry or cause to be carried in carts,  
For carrying filth through streets except at certain hours. pots, handies, or other vessels any night-soil or urine, or other noisome or offensive matter through the public streets except between the hours of midnight and eight in the morning, or who shall carry or cause to be carried any night-soil or urine in such manner that any offensive smell or drainings issue therefrom, or who shall place or set down in any public place any vessel containing night-soil or urine, or who shall carry or cause the same to be carried in any other than covered carts or vessels, or who shall throw or deposit any night-soil in or upon any street.

13. Every person who shall bathe or wash any part of his person in  
For bathing in a public street, &c. any public street, or upon or in any of the tanks, reservoirs, aqueducts, water-works, or drains belonging to the Commissioners except in such of the said tanks, reservoirs, aqueducts, water-works, or drains as the Commissioners shall set apart for that purpose.

14. Every person who shall wash or cause to be washed any horse, dog, or other animal, or any cloth, wearing apparel, leather, or skin of any animal, or any foul or offensive thing on any street, in or near any tanks, reservoirs, aqueducts, water-works, or drains belonging to the Commissioners, or on or in the road adjoining thereto, except in such of the said tanks, reservoirs, aqueducts, water-works, or drains as the said Commissioners shall set apart for that purpose.  
For washing animals, &c. in tanks or aqueducts.

15. Every person who shall wilfully and indecently expose his person, or who shall commit nuisance in any of the public streets.  
For indecently exposing person.

16. Every

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16. Every person being the owner or occupier of any house, hut, or building within the Town which has a drain on the same side of the street wherein such house, hut, or building is situate, who shall cause or allow any water,

For allowing water to flow from houses or pipes on public streets, and for refusing to alter the direction of water-spouts, &c.

or liquid matter from or on such house, hut, or building to flow or be carried through pipes, gutters, water-spouts or other means on any part of any public street, or on any place but his own land or the public drain, or who shall refuse or neglect to remove or alter the direction of any such pipe, gutter, or water-spout after the expiration of ten days' notice for that purpose given by the Surveyor of the said Commissioners; and any person being the owner or occupier of any house, hut, or building in the said Town, which has not a drain on the same side of the street as such house, hut, or building, who shall convey the water from the said house, hut, or building in or upon any public street, through pipes or water-spouts the mouths of which shall be higher than two feet from the ground.

17. Every person being the owner or occupier of any house, hut, or building, who shall cause or allow any verandah, balcony, sunshade, or other part of any house, hut, or building to overhang and project into any public street or public place at a height of less than eleven feet from the level of the roadway or to a distance exceeding four feet from the house, and who shall refuse or neglect to take down and remove such verandah, balcony, sunshade or other projection after the expiration of fifteen days' notice for that purpose given by the Surveyor.

For projections over streets, &c.

18. Every person who shall, after the passing of this Act, erect or set up any verandah, balcony, sunshade, or other projection of any kind which may overhang and project into the road at any height and to any distance without

For projections over streets after passing of this Act.

licence

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licence first obtained from the Commissioners under the hand of their Surveyor.

19. Every person who shall wash or cleanse, or cause or order or

For washing carriages  
in public streets.

allow his servants to wash or cleanse any carriage or other conveyance, or horse or other animal, or whose carriage or other conveyance, or horse or other animal shall be washed or cleansed in any public street or other public place.

20. Every person who shall place, set up, or build in any public

For setting up boards  
and scaffolding in streets  
without leave, &c.

street within the Town any board, scaffolding, post, bar, rail, hoards, or other thing by way of inclosure for the

purpose of making mortar or of depositing, sifting, screening, or slackening any bricks, stone, lime, sand, or any other materials for building or repairing any house or other building, or for any other purpose whatsoever without licence first obtained from the Commissioners, who are hereby authorized to grant such licence, under the hand of their Surveyor, or who shall set up or build the same in any other manner, or allow or cause the same to be continued for any longer time than shall be allowed or expressed in such licence, or who shall cause or allow any of the building materials or other things to extend beyond the distance expressed in the licence.

21. Every person who shall have been allowed by the Commis-

For lighting obstruc-  
tions, when allowed.

sioners to set up any scaffolding or deposit any bricks, stone, lime, sand, or other building materials on the public streets, and who shall not cause a light to be set up every night from sunset to sunrise on every such erection or obstruction.

22. Every person who shall build any wall, or erect any fence or

For erecting obstruction  
in streets whether proprie-  
tor's right be in dispute or  
not.

obstruction, or set up any post so as to be an obstruction in any street, whether the proprietary right to such street shall be in dispute or not.

23. Every

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23. Every person who shall set out, place, or expose, or cause to be set out, placed, or exposed, whether for sale or otherwise any stall, booth, show-board, basket, cask, or meat, fish, vegetable, fruit, groceries, or any other merchandise or goods of any kind, or any stone, bricks, earthen-ware, hard-ware, timber, or any other thing whatsoever, whether animal, vegetable, or mineral, in or upon any of the public streets or on or over any drain, sewer or aqueduct.

24. Every person who shall sift or clean, or cause to be sifted or cleansed, or exposed for any other purpose any cotton, grain, seeds, rice, coffee, onions, or any other vegetable matter whatsoever, or who shall sift brickdust or lime on any public street, or on or over any public drain, sewer, reservoir, or aqueduct.

25. Every person who shall keep or leave any carriage, cart, hackery, or other conveyance, or any horse, ox or other animal, on any public street or on or over any public drain, sewer, or aqueduct, so as to cause an obstruction in the streets or public thoroughfare.

26. Every person who shall set fire to or burn any straw, hay, seeds, timber, or any other matter, or light any bonfire or fire in any public street, or discharge any kind of fire-arms or any air-gun, or let off or throw any kind of fire-works or send up any fire-balloon any where in the said Town.

27. Every person who shall beat or sound any musical or sounding instrument, or any brass or metal utensil in the public streets, except at such times and places as shall be from time to time

For exposing articles for sale in public streets, &c.

For sifting or cleansing grain, &c., in public streets.

For leaving vehicles in public streets, &c.

For making fires and discharging fire-arms and fire-works in streets.

For sounding musical instruments or metals in streets.

## ACT No. XII. OF 1852.

time to time appointed by the Chief Magistrate upon application made to him for that purpose.

**28. Every person, other than the said Commissioners or their ser-**

For affixing bills, or vants, who shall affix any bill, notice, or any paper otherwise defacing houses, &c. against or upon any building, wall, fence, or board, or who shall write upon, deface, or mark with chalk, or paint, or in any way whatsoever, any building, wall, fence, or board without the consent of the owner or occupier thereof.

**29. Every person who shall expose or allow to be exposed within**

For exposing unwhole- some food, &c. the limits of the said Town any animal, carcase, meat, poultry, game, flesh, fish, or vegetables in a decayed and unwholesome state and unfit for the food of man.

**30. Every person who shall slaughter or cut up any beast, sheep,**

For slaughtering in streets. swine, or other animal in any public street, or so near thereunto that any blood or filth or other matter from the same shall flow or be carried into such street.

**31. Every person being the owner, occupier, or farmer of any**

For keeping a market unclean, &c. public market, bazar, or slaughter-house, who shall keep or allow the same to be kept in a filthy and unclean state, and shall refuse or neglect, after the expiration of two days' notice to be given by the said Commissioners or their Surveyor, Overseer, or Bazar Inspector, to cause such market, bazar, or slaughter-house to be properly cleansed and the filth thereof removed.

**32. Every person who shall keep in any street, house, out-house,**

For keeping swine, &c., in the Town. yard, or ground within the Town, any swine or a flock of more than twenty sheep, goats, or horned cattle.

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**XLII.** It shall be lawful for the said Commissioners, with the concurrence of the Chief Magistrate, to set apart, at their discretion, certain of the public ghauts on the Calcutta bank of the River Hooghly for the purpose of being used as bathing places, and every person who shall by landing goods or merchandise at the said ghauts, or who shall by anchoring or otherwise fastening or keeping boats or vessels of any description in any manner obstruct or incommodate the bathers at any such ghaut, shall be liable, on conviction before a Justice of the Peace, to a fine not exceeding fifty rupees, or, at the discretion of such Justice, to imprisonment for a period not exceeding one month.

**XLIII.** It shall be lawful for the said Commissioners, with the concurrence of the Chief Magistrate, at their discretion, to grant a licence to any person permitting him to put up posts on the side of any public street for the purpose of affixing thereon lamps to illuminate the said street on occasions of festivals or ceremonies; and any person who shall put up any such post, or affix any such lamp for any purpose, without licence first had and obtained from the Commissioners under the hand of the Secretary or Surveyor, shall, on conviction thereof before a Justice of the Peace, be liable to a fine not exceeding one hundred rupees, and in default of payment, shall be imprisoned for any period not exceeding one month.

**XLIV.** Every person being the owner, occupier, or farmer of any public market, bazar, or slaughter-house within the Town, shall cause such market, bazar, or slaughter-house to be registered at the office of the Commissioners, with a general description of the place, size, number of shops and stalls, and kinds of goods therein exposed for sale; and if he shall refuse or neglect so to register the same he shall forfeit and pay, on conviction before a Justice

## ACT No. XII. OF 1852.

Justice of the Peace, a sum not exceeding one hundred rupees, and in default of payment thereof, shall be liable to be imprisoned for any period not exceeding one month.

**XLV.** No place shall be used or occupied as a slaughter-house, within the said Town, which was not in such use and

Penalty for making and using any new slaughter-house within the Town without the consent of Commissioners, &c.

occupation at the time of the passing of this Act, and has not so continued ever since, unless and until a licence for the erection thereof, or for the use and

occupation thereof, as a slaughter-house has been obtained from the Commissioners, and every person who, without having first obtained such licence as aforesaid, shall use as a slaughter-house any place within the said limits not used as such at the time of the passing of this Act, and so continued to be used ever since, shall for every such offence forfeit and pay, on conviction before a Justice of the Peace, a sum not exceeding one hundred rupees, and in default of payment shall be liable to be imprisoned for any period not exceeding one month.

**XLVI.** Every person being the owner, occupier, or farmer of any

Owners of bazars, tanneries, &c., shall have sufficient drains.

market, bazar, tannery, or slaughter-house within the said Town is required to have such a number of drains

therein as shall be considered sufficient by the Commissioners, and shall have all the floors and drains paved with stone or burnt brick, and he shall have also therein a supply of water sufficient in the judgment of the Commissioners to keep the whole place in a clean and wholesome state at all times, and in default thereof for four weeks after notice given to him by the Surveyor, Overseer, or Inspector of Markets that such market, bazar, tannery, or slaughter-house is defective in any of the said particulars, shall forfeit and pay, on conviction before a Justice of the Peace, a sum not exceeding one hundred rupees, and in default of payment shall be liable to be imprisoned for any period not exceeding two months.

**XLVII.** Any

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**XLVII.** Any person who, after the passing of this Act, shall estab-

Penalty for establishing any new tannery, &c., in Town. lish any new tannery or other manufactory within the said Town, from which an offensive or unwholesome

smell may arise, shall forfeit and pay, on conviction before a Justice of the Peace, a sum not exceeding two hundred rupees, and in default of payment shall be liable to be imprisoned for any term not exceeding two months.

**XLVIII.** All doors and gates put up after the passing of this Act

Doors in future to be made to open inward, and doors opening outwards may be altered by the Commissioners.

within the limits of the said Town, and which open upon any street, shall be hung or placed so as not to open outwards; and if any such door or gate be hung or placed so as to open outwards on any street,

the occupier of such house, building, yard, or land shall, within eight days after notice from the Commissioners to that effect, cause the same to be altered so as not to open outwards, and in case he neglects so to do the Commissioners may make such alteration, and the expenses of such alteration shall be paid to the Commissioners by such occupier, and shall be recoverable from him in manner hereafter mentioned. And if any such door or gate was before the passing of this Act hung so as to open outwards upon any street, the Commissioners may alter the same, or cause the same to be altered, so that no part thereof when open shall project over any public way.

**XLIX.** Every person being the owner or occupier of a house in

Number of house to be affixed to it. the Town, shall fix, at his own expense, in a conspicuous place outside of the house or of his gate, in the

street, the number of the same, as recorded in the assessment books, and no other number, and the said number shall be in legible figures at least three inches in length, and any person who, after the expiration of three months after the publication of this Act, shall neglect

## ACT No. XII. OF 1852.

or refuse to have such number affixed, shall, on conviction before a Justice of the Peace, forfeit and pay a sum not exceeding fifty rupees.

**L. Every person being the occupier of a house in the said Town,**

Occupiers to keep lamp lighted outside their gates in the streets.

and rated at a gross monthly rental of rupees seventy and upwards for the same, shall fix, at his own expense,

in a conspicuous place outside of his house, or if the said house be in a compound, outside of his gate, in the street, a lamp, of a pattern to be approved or allowed by the Commissioners, and the said occupier shall keep and maintain a good and sufficient light burning in the said lamp throughout the night, and any person who, after the expiration of three months next after the passing of this Act, shall neglect or refuse to have such lamp affixed as aforesaid, or who shall on any night after the expiration of the said three months, neglect or refuse to keep a good and sufficient light burning therein as aforesaid, shall, on conviction before a Justice of the Peace, forfeit and pay a sum not exceeding one hundred rupees.

**LI. When any person shall have been convicted under the provi-**

Provision for repetition of offences. **sions of this Act, and shall not, within seven days after**

**such conviction, discontinue the nuisance or cease to**

**commit the offence for which he was so convicted, such person shall be again liable to the penalties and punishments provided by this Act for such nuisance or offence, and may be again convicted or sentenced under this Act accordingly, and in cases where by the provisions of this Act offenders are required to have notice given them to remove the obstruction or nuisance previous to being liable to the penalties imposed by this Act, if such parties being once warned shall be convicted, and shall again offend against the provisions of this Act, it shall not be necessary to repeat the notice aforesaid, but the parties may be summoned at once.**

**LII. Any**

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**LII.** Any person who shall wilfully obstruct or molest the said Commissioners or any of them, or their Secretary, Surveyor, or other Officer or Workman employed by them under the provisions of this Act, or any person or company with whom they may have contracted under the provisions of this Act, or any person employed by them in the performance or execution of any duty or thing which they are respectively required or authorized to do under this Act, shall, for every such offence, on conviction before a Justice of the Peace, forfeit and pay any sum not exceeding one hundred rupees, or, in the discretion of the said Justice before whom he is convicted, to imprisonment, with or without hard labour, for a period not exceeding three months.

**LIII.** No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this Act for any offence complained of before a Justice of the Peace, unless the complaint respecting such offence shall have been made before such Justice within three months next after the commission of such offence. Provided always that nothing in this Section contained shall be construed so as to prevent the removal at any time of any obstruction or encroachment in or upon any of the streets or lands, or the imposing or levying at any time of any penalty or forfeiture in respect thereof.

**LIV.** In all cases where any damages, costs, or expenses are by this Act directed to be paid, and the method of ascertaining the amount or of enforcing the paying thereof is not provided for, such amount in case of dispute shall be ascertained and determined by arbitration, in like manner as is provided for proceeding by arbitration under Act No. XXII. of 1847, and if the parties cannot agree upon two persons or arbitrators, or the arbitrators fail to pronounce their award as aforesaid, then by any two Justices of Calcutta, and if the amount

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amount so ascertained be not paid by the said Commissioners or by the other party liable to pay the same, as the case may be, within seven days after demand thereof, the amount may be recovered by action of debt or on the case in Her Majesty's Supreme Court of Judicature or the Calcutta Court of Small Causes.

### LV. The said Commissioners shall publish short particulars of the

Commissioners to publish short particulars of offences. several offences for which any penalty or punishment is imposed by this Act, affecting other persons than

Officers or servants of the said Commissioners, and of the amount of every such penalty and punishment, and shall cause such particulars to be painted on a board, or to be printed upon paper and posted on a board in English and Bengallee, and shall cause such board to be hung up or affixed in some conspicuous place in the Office of the Secretary of the said Commissioners, and when any such penalties are of local application, shall cause such boards to be affixed in some conspicuous place of the immediate neighbourhood to which such penalties are applicable or have reference.

### LVI. Every penalty or forfeiture imposed by this Act, or any

All penalties not otherwise provided may be recovered before Magistrate; form of procedure. expense incurred by the said Commissioners in respect of any private drains, sewers, doors, or other things as aforesaid, the recovery of which is not otherwise pro-

vided for, may be recovered by summary proceeding before any Justice of the Peace of Calcutta, and on complaint being made to any such Justice, he shall issue his summons requiring the party complained against to appear before him, at a time and place to be named in such summons, and every such summons shall be served on the party offending, either in person or by leaving the same at his usual or last known place of abode, and upon the appearance of the party complained against, or in his absence, after proof of the due service of such summons, it shall

be

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be lawful for such Justice to proceed to the hearing of the complaint, which complaint shall be reduced to writing, and upon proof of the offence, or of the expense having been incurred, either by the confession of the party complained against or upon the oath or solemn affirmation of one credible witness or more, it shall be lawful for such Justice to convict the offender or party summoned as aforesaid, and upon such conviction to adjudge the offender to pay the penalty, or forfeiture, or suffer the punishment, or to pay the expense incurred under the provisions of this Act, as well as such costs attending the conviction as such Justice shall think fit, which penalty or forfeiture and costs so adjudged may be levied by distress.

### LVII. Where in this Act any sum of money, whether in the na-

Manner of executing ture of penalty or otherwise, is directed to be levied distress.

by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same, and the overplus arising from such goods and chattels, after satisfying such sum of money and the expenses of the distress and sale, shall be returned on demand to the party whose goods shall have been distrained, or instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or any part of any penalties, forfeitures, or expenses imposed or incurred under the provisions of this Act, the Commissioners, or any one or more of them, if they think fit, may authorize their Secretary or other person to sue the person liable to pay such penalty, forfeiture, or expenses, or any part thereof, in the Calcutta Court of Small Causes; and the costs, if any, incurred in any such suit, which are not recovered in the suit, may be defrayed out of the taxes levied under the provisions of Act X. of 1852.

### LVIII. No distress levied by virtue of this Act shall be deemed

No distress unlawful for want of form, &c. unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want

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of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall any such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action on the case in Her Majesty's said Supreme Court, or in the Calcutta Court of Small Causes.

### LIX. The Justice of the Peace by whom any such penalty or forfei-

How penalties are to be applied. ture shall be imposed may, when the application thereof is not otherwise provided for, award not more than one-half thereof or any less sum to the informer, if he shall think fit so to do, and shall award the remainder or the whole thereof to the said Commissioners, to be by them applied to the purposes of this Act as to them shall appear fit, and shall order the same to be paid over to the Secretary of the said Commissioners for that purpose, whose receipt shall be a good and sufficient discharge to the person so paying the same.

### LX. If through any act, neglect, or default, on account whereof any

Parties liable to penalty shall pay damage done to Commissioners also. person shall have incurred any penalty imposed by this Act, any damage to the property of the said Commissioners shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty, and if the amount of such damage shall not be paid on demand, the same may be recovered by action of debt, or on the case, in the Calcutta Court of Small Causes, or in Her Majesty's said Supreme Court of Judicature,

### LXI. It shall be lawful for any Justice of the Peace to summon any

Power to Justice to summon witnesses; penalty for not appearing. person to appear before him as a witness in any matter in which such Justice shall have jurisdiction under the provisions of this Act, at a time and place to be mentioned in such summons, and require from him, on oath or solemn affirmation,

## ACT NO. XII. OF 1852.

affirmation, that he will testify the truth in such matter; and if any person so summoned shall without reasonable cause refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, if from distance or any other cause he shall be lawfully entitled to claim such expenses, or if any person appearing shall refuse to be examined on his oath or solemn affirmation according to law, or to give evidence before such Justice, every such person shall for every such offence forfeit and pay a sum not exceeding two hundred rupees, or, at the discretion of such Justice, shall be imprisoned for any term not exceeding one month.

### LXII. The following words and expressions in this Act shall have

Meaning of words in this Act. the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,) words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; words importing the masculine gender only shall include females; the word "person" shall include corporations, whether aggregate or sole; the words "oath," "affirmation," and "solemn affirmation," when used alone, shall include oath or affirmation or other declaration lawfully substituted for an oath in such case by any legislative Act of the Governor General of India in Council, or by any Act of the Parliament of Great Britain extended to India; the word "street" shall include any public square, circus, street, court, alley, foot-path, highway, lane, road, thoroughfare, public passage, or other public place within the said Town; the word "lands" shall include messuages, buildings, walls, tenements, and hereditaments of any tenure as well as lands; the words "the said Commissioners" shall mean the Commissioners for the time being appointed or acting under the provisions of Act No. X. of 1852, and the word "month" shall mean Calendar month.



## ACT No. XIII. OF 1852.

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*Passed by the Governor General of India in Council, on  
the 27th February 1852.*

*An Act for consolidating and amending the Regulations of the  
Calcutta Police.*

WHEREAS it is expedient to consolidate and amend divers Rules, Ordinances, and Regulations which from time to time have been passed in Council, and registered in the Supreme Court, for the good order and civil government of the Presidency and Settlement of Fort William in Bengal, It is enacted as follows:

I. Section VIII. of Act XXI. of 1839, and the Rules, Ordinances, and Regulations for the good order and civil government of the Settlement of Fort William in Bengal, passed in Council, and registered in the Supreme Court, on the several days hereinafter mentioned, are repealed, but not so as to revive any other Rules, Ordinances, and Regulations thereby repealed.

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### *List of Repealed Ordinances.*

Date of passing in Council.	Date of Registry in the Supreme Court.
26th July 1814.	11th November 1814.
1st March 1816.	26th March 1816.
23rd March 1816.	13th April 1816.
14th June 1816.	8th July 1816.
19th October 1816.	12th November 1816.
28th March 1817.	21st April 1817.
13th January 1818.	7th February 1818.
9th July 1819.	22nd October 1819.
24th March 1820.	17th April 1820.
21st August 1821.	13th November 1821.
8th March 1827.	27th April 1827.

### II. If any person within the said Town, having sufficient means

Justices of the Peace  
may make order of main-  
tenance for wives and chil-  
dren.

or employment, shall not duly maintain his wife or his legitimate or illegitimate children, and shall be thereof convicted before a Justice of the Peace, upon his own confession or the oath of one or more credible witnesses, the said Justice may make an order upon such person for the maintenance of such wife and children, or any of them, at such monthly rate as to the Justice seems reasonable, and upon non-compliance with the said order for any one month, or longer period, any Justice, by warrant under his hand and seal, may commit the person so convicted to the Common Gaol of Calcutta without labour, or to the House of Correction to hard labour, for any time not exceeding two Calendar months.

### III. Every

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### III. Every person who shall be brought before a Justice of the

Persons convicted of  
having or conveying stolen  
goods liable to penalty.

Peace charged with having in his possession, or in his premises with his knowledge, or with conveying in any manner anything which may be reasonably suspected of being stolen or unlawfully obtained, and who shall not give an account to the satisfaction of such Justice how he came by the same, shall be deemed guilty of a misdemeanor, and, on conviction thereof before such Justice, shall be liable to a penalty not exceeding one hundred rupees, or, in the discretion of the said Justice, to imprisonment, with or without hard labour, for any time not exceeding three Calendar months.

### IV. When any person shall be brought before a Justice of the Peace

Persons in whose pos-  
session stolen goods are  
found, to be examined, &c.

charged with having in his possession, or in his premises with his knowledge, or with conveying anything stolen or unlawfully obtained, and shall declare that he received the same from some other person, or that he was employed as a carrier, agent, or servant to convey the same for some other person, such Justice shall cause every such person, and also if necessary every former or pretended purchaser, or other person through whose possession the same shall have passed, to be brought before him and examined, and shall examine witnesses upon oath touching the same; and if it shall appear to such Justice that any person shall have had possession of such thing, and had reasonable cause to believe the same to have been stolen or unlawfully obtained, such person shall be deemed guilty of a misdemeanor, and shall be liable to a penalty not exceeding one hundred rupees, or, in the discretion of the Justice, may be imprisoned, with or without hard labour, for any time not exceeding three Calendar months; every such person shall be deemed to have had possession of such thing at the time and place when and where the same shall have been found or seized, and the possession of a carrier, agent, or servant shall be deemed to be the pos-  
session

## ACT No. XIII. OF 1852.

session of the person who shall have employed such carrier, agent, or servant to keep or convey the same.

### V. If information shall be given on oath to a Justice of the Peace

On suspicion of goods being stolen or unlawfully obtained, Justice may grant search-warrant.

that there is reasonable cause for suspecting that anything stolen or unlawfully obtained is concealed or lodged in any dwelling-house, building, or other place, such Justice, by special warrant under his hand, directed to any Police Officer or Constable, may cause such dwelling-house, building, or other place to be entered and searched at any time of the day, or by night, if power for that purpose be given by such warrant, and the said Justice, if it shall appear to him necessary, may empower such Police Officer or Constable, with such assistance as may be found necessary, (such Constable having previously made known his authority,) to use force for the effecting of such entry, whether by breaking open doors or otherwise, and if upon search thereupon made any such thing shall be found, then to convey the same before a Justice, or to guard the same on the spot, until the offenders are taken before a Justice, or otherwise dispose thereof in some place of safety, and moreover to take into custody, and carry before the said Justice every person found in such house or place who shall appear to have been privy to the deposit of any such thing, knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained.

### VI. If information shall be given to any Superintendent, Deputy

Power to search houses for stolen property without a warrant in certain cases.

Superintendent, or Inspector belonging to the Calcutta Police, that there is reasonable cause for suspecting that any stolen property is concealed or lodged in any dwelling-house or other place, and the said Superintendent, Deputy Superintendent, or Inspector shall have good grounds for believing that, by reason of the delay in obtaining a search-warrant, the property is likely to be removed, the said Superintendent, Deputy Superintendent, or Inspector,

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Inspector, in virtue of his office, may search for specific articles alleged to have been stolen in the houses and places specified ; provided always, that a list of the articles stolen or missing be delivered and taken down in writing, with a declaration stating that the robbery has been committed, and that the informant has good ground to believe that the property is deposited in such house or place ; and provided further, that the person who lost the goods, or his representative, accompany the Officer in the search.

### VII. All persons charged with the commission of any of the offences

Extension of Acts XXI. of 1839 and III. of 1842, to cases in which property stolen does not exceed fifty rupees in value.

specified in Acts XXI. of 1839 and III. of 1842, may be tried by any Justice of the Peace for the said Town, provided the value of the property which the prisoner

is charged with having stolen does not, according to the belief of such Justice, exceed fifty rupees, anything in the said Acts to the contrary notwithstanding ; and all the powers by Act XXI. of 1839 (except Section VIII. aforesaid,) and Act III. of 1842, given or reserved to any such Justice for the trial, conviction, and sentence of parties charged with having stolen property not exceeding twenty rupees in value, and all the provisions of the said Acts (except as aforesaid) shall extend and be applicable to the trial, conviction, and sentence of parties charged with having stolen property, not exceeding, according to the belief of the Justice, fifty rupees in value.

### VIII. Every person charged with the offence of feloniously receiving goods or money, knowing the same to be stolen,

Extension of Acts XXI. of 1839 and III. of 1842, to the offence of receiving stolen property when the value of the property does not exceed fifty rupees.

may be tried by any Justice of the Peace, provided that the value of the property stolen or received does not, according to the belief of the Justice, exceed fifty rupees,

and every such person, on conviction of any such offence, shall be liable, at the discretion of the Justice, to be imprisoned, with or

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without hard labour, for any term not exceeding six Calendar months ; and all the powers and provisions of Act III. of 1842 and Act XXI. of 1839, except Section VIII. aforesaid, shall apply, so far as they may be applicable, to the trial, conviction, and sentence of any person charged under this Section with the offence of feloniously receiving goods or money knowing the same to be stolen ; provided always, that if it shall appear to the said Justice that such person has been previously convicted of, or is in the habit of receiving stolen goods, knowing the same to be stolen, the said Justice shall commit such person for trial before the Supreme Court of Judicature.

### IX. Every person who is accessory, before or after the fact, to any

Summary conviction of persons accessory to the commission of certain felonies. felony which is punishable on summary conviction before any Justice, is liable to be tried and convicted summarily before such Justice, on his own confession

or the oath of one or more credible witnesses, and the convicting Justice shall have power to sentence any such accessory to imprisonment, with or without hard labour, for any time not exceeding six Calendar months, or in his or their discretion, instead of trying him, to commit him for trial to the Supreme Court of Judicature, or other court having authority to try him.

### X. Whenever any boy, under the age of sixteen years, is convicted

Punishment for boys. before a Justice of the Peace, either of simple larceny under the said Act XXI. of 1839, or, under this Act, of feloniously receiving goods or money knowing the same to be stolen, or of being an accessory to any felony which is punishable on summary conviction before any Justice, the said Justice, if he thinks fit, may sentence him to receive corporal punishment not exceeding fifteen stripes of a light ratan, instead of sentencing him to imprisonment.

### XI. Any

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### XI. Any person who shall commit any assault, forcible entry, or other injury accompanied with force, not being felony,

Cases of assault, forcible entry, or other injury not being felony.

within the said Town, against the person or property of any person whatsoever, shall be liable, on conviction thereof before a Justice of the Peace, to a fine not exceeding one hundred rupees, and the said Justice may award the whole or any part of such fine to the party or parties aggrieved, by way of satisfaction for such injury, or, in the discretion of such Justice, such person shall be imprisoned, with or without hard labour, for any time not exceeding four Calendar months.

### XII. Any Deputy Superintendent or Inspector of Police may take

Persons charged with recent assault may be apprehended by Police without warrant, though assault not committed in view of Police.

into custody, or authorize a Constable to take into custody, without warrant, any person who within the said Town shall be charged by any other person with committing an aggravated assault, in every case in which such Deputy Superintendent or Inspector of Police shall have good reason to believe that such assault has been committed, although not within view of such Deputy Superintendent or Inspector, and that by reason of the recent commission of the offence, a warrant could not have been obtained for the appearance of the offender.

### XIII. If complaint shall be made before any Justice that any per-

Unlawfully taking or enticing away women or female children under the age of sixteen.

son within the said Town has unlawfully taken or caused to be taken away, against her will, any woman, or has unlawfully taken or caused to be taken or enticed away any female child under the age of sixteen years, out of the possession or protection and against the will of the husband, father, mother, guardian or other person who has the lawful order, keeping, education, or government of such child, for the purpose of living in adultery with such woman or child, or for purposes of prostitution, or of deflowering or disposing of her in marriage, it shall be lawful for the said Justice to make

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an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, father, mother, guardian, or such other person as aforesaid, as the case may be, and to compel compliance with such order; and if it be necessary to use force for that purpose, any Deputy Superintendent or Inspector of Police, duly authorized by the Justice in that behalf, with such assistants as he may deem necessary, may break open doors or otherwise compel compliance with the same, and the said Justice may commit any person charged with taking, or causing to be taken, or enticing any woman or female child as aforesaid, for any of the purposes aforesaid, for trial before the Supreme Court of Judicature.

### XIV. Any person who shall have or keep any house, shop, room, or place of public resort and entertainment within the said

Keeping open houses of public entertainment without licence. Town, wherein provisions, liquors, or refreshments of any kind shall be sold or consumed, (whether the same

shall be kept or retailed therein or procured elsewhere,) without a licence for the same being first had and obtained from and under the hand of two Justices of the Peace, shall be liable, on conviction thereof before any of the said Justices, to a penalty not exceeding one hundred rupees for every day that such unlicensed house or place of public resort or entertainment is kept open.

### XV. Two or more of the said Justices shall from time to time hold

Two Justices to grant licences. licensing Sessions, for the purpose of granting licences to the keepers of such houses or places of public resort

and entertainment as aforesaid, and the said licences may be granted by the said Justices for any term not exceeding one year, subject to the restriction contained in Section XII. Act XI. of 1849, and upon such conditions to be inserted in every such licence as the Justices from time to time shall order, for securing the good behaviour of the keepers of the said houses or places of public resort or entertainment, and the prevention

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tion of drunkenness and disorder among the persons frequenting or using the same.

**XVI.** The keeper of every such house or place of public resort and entertainment, who shall wilfully offend against any condition of his licence, shall be liable, on conviction before a Justice of the Peace, to a penalty not exceeding one hundred rupees for every such offence, and, in the discretion of the convicting Justice, to forfeit his licence, in addition to any other penalty or punishment that shall be imposed on him.

Penalty for parties not conforming to the tenor of their licence.

**XVII.** Every person who shall have or keep any house, shop, room, or place of public resort or entertainment within the said Town, wherein provisions, liquors, or refreshments of any kind shall be sold or consumed, (whether the same shall be kept or retailed therein or procured elsewhere,) and who shall knowingly or wilfully permit drunkenness or other disorderly behaviour in such house, shop, room, or place, or who shall knowingly suffer any unlawful games or any gaming whatsoever therein, or who shall knowingly permit prostitutes or persons of notoriously bad character to meet or remain therein, or who shall wilfully harbour or conceal any Seaman or Apprentice who shall have deserted, knowing or having reason to believe such Seaman or Apprentice so harboured or concealed to be a deserter, shall be liable to a penalty not exceeding one hundred rupees, and shall be liable to forfeiture of his licence, in addition to any other penalty or punishment that shall be imposed on him.

Disorderly conduct and illegal harbouring of deserters in houses of public entertainment.

**XVIII.** Every person who shall keep open his house, shop, room, or place, for the purpose of selling or retailing spirituous or fermented liquors or intoxicating drugs, under a licence from the Collector of Calcutta, after the hour of nine at night and

Hours for sale of spirituous liquors and intoxicating drugs.

before

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before the hour of six in the morning, shall be liable, on conviction before a Justice of the Peace, to a penalty not exceeding twenty-five rupees, and shall also be liable, in the discretion of the said Justice, to the forfeiture of his licence.

**XIX.** If any person, not being amenable to the Articles of War, shall take or attempt to take into Fort William any quantity of spirituous liquors, wine, or intoxicating drugs of any description, without a licence from the Commanding

Introduction of spirituous liquors without licence into Fort William.  
Officer of the said Fort, or from some other person thereunto authorized, any Justice of the Peace, upon complaint to him thereof made, may issue his summons or warrant for bringing the party complained of, and also the liquors, wine, or drugs, and the vessels containing the same, before him, and in case of conviction may adjudge the said liquors, wine, or drugs, and the vessels containing the same, to be forfeited, and every such person so convicted shall be liable, on conviction before a Justice of the Peace, to a penalty not exceeding fifty rupees, or, at the discretion of the said Justice, to imprisonment, with or without hard labour, for any period not exceeding two Calendar months.

**XX.** Every person who shall take or throw, or attempt to take or

Taking spirits, &c., into the Gaol.  
throw, into the Great Gaol or House of Correction of Calcutta, any quantity of spirituous liquors, wine, or intoxicating drugs, without the licence or consent of the Jailor or Keeper of such Gaol or House of Correction, respectively, shall be liable for every such offence, on conviction before a Justice of the Peace, to a penalty not exceeding fifty rupees, or, at the discretion of the said Justice, to imprisonment, with or without hard labour, for any period not exceeding two months.

**XXI.** Every person who shall have been committed to the Great

Breaking Gaol.  
Gaol or House of Correction, or who shall be in custody at any Police Office or Station, and who shall unlawfully

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fully break or escape from such Gaol, House of Correction, Police Office, or Station, shall be liable for every such offence, on conviction before a Justice of the Peace, to imprisonment, with or without hard labour, for any period not exceeding three months, and such imprisonment shall commence and take effect from and after the expiration of any other sentence of imprisonment under which such person may be imprisoned at the time of committing the offence aforesaid.

**XXII.** Every person who shall be found drunk and incapable of taking care of himself in any street or public thoroughfare, or who shall be guilty of any riotous or indecent behaviour in any street, public thoroughfare, Police Office, Station, or Section House, shall be liable, on conviction before a Justice of the Peace, to a penalty not exceeding twenty rupees for every such offence, or, at the discretion of the said Justice, to imprisonment, with or without hard labour, for any period not exceeding fourteen days.

**XXIII.** Any Constable or Peace Officer belonging to the Calcutta Police may take into custody, without a warrant, any person who shall be found between sunset and sunrise armed with any dangerous or offensive instrument whatsoever, with intent to break or enter into any dwelling-house or other building whatsoever, or any loose, idle, or disorderly persons whom he shall find disturbing the public peace, or whom he shall have good cause to suspect of having committed, or being about to commit, any felony, misdemeanor, or breach of the peace, or any reputed thief whom he shall find between sunset and sunrise on board any boat in the river, or lying or loitering in any bazar, street, road, yard, thoroughfare or other place, and not giving a satisfactory account of himself, or any person having in his possession without lawful excuse (the proof of which excuse shall lie on such person), any picklock key, crow, jack, bit, or other implement

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ment of house-breaking, or any person found between sunset and sunrise having his face blackened or otherwise disguised, with intent to commit any felony, or any person who shall be found between sunset and sunrise in any dwelling-house or other building whatsoever, with intent to commit any felony therein ; and every such offender, on conviction before a Justice, either on his own confession or on the evidence of one or more credible witnesses, shall be liable, at the discretion of the said Justice, to be imprisoned, with or without hard labour, for any term not exceeding four Calendar months.

**XXIV.** Every person who shall beg or apply for alms or relief in any public road, street, or thoroughfare, or who shall

Beggars. expose or exhibit any sores, wounds, bodily ailment or deformity in such roads, streets, or public thoroughfares, with the object of exciting charity, or of obtaining alms, or relief, or who shall, anywhere within the Town, seek for or obtain alms or relief by means of any false statements or pretences, or who shall cause, aid, or abet any such person as aforesaid in the commission of any of the said offences, shall, for every such offence, on conviction before a Justice, be liable to imprisonment, with or without hard labour, for any period not exceeding two Calendar months.

**XXV.** Every person who shall drive or ride furiously, or at a

Furious Driving. greater rate than ten miles an hour, any vehicle or animal in the said streets or public thoroughfares, shall, for every such offence, on conviction thereof before a Justice, be liable to a penalty not exceeding fifty rupees, or in default of payment thereof, to imprisonment for any period not exceeding one Calendar month.

**XXVI.** Every

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### XXVI. Every person who shall drive any vehicle of any descrip-

Lamps to vehicles. tion, at any time between one hour after sunset and one hour before sunrise, without having a lighted lamp

affixed to such vehicle, shall, for every such offence, on conviction thereof before a Justice, be liable to a penalty of not more than fifty rupees, or, in default of payment thereof, to imprisonment for any period not exceeding one Calendar month.

### XXVII. If any person shall make oath before a Justice of the

For suppression of common gaming-houses. Peace that any house, building, room, or other place within the Town, is commonly reported and believed

to be kept or used as a common gaming-house or place, such Justice, by an order in writing, may authorize a Deputy Superintendent or Inspector of Police to enter any such house, building, room, or place, with such Constables as he shall deem requisite to accompany him, and if necessary, to use force for the purpose of effecting such entry, whether by breaking open doors or otherwise, and to take into custody and search all persons found therein, and to seize all tables and instruments of gaming found in such house, building, room, or place, or on the persons of any of those found therein, and also to seize all moneys and securities for money found in any such house, building, room, or place; and the owner or keeper of the said gaming-house, or place, or other person having the care and management thereof, shall be liable, on conviction before a Justice of the Peace, to a penalty not exceeding one hundred rupees, or, at the discretion of the said Justice, to imprisonment, with or without hard labour, for any time not exceeding three Calendar months, and upon conviction of any such offender all such tables and instruments of unlawful games shall be destroyed or otherwise disposed of by order of the Justice before whom the conviction is had, and all the moneys and securities for moneys so found shall be forfeited to Government, and every person found on such premises, and who shall not be the owner or keeper,

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or

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or other person having the care or management thereof, shall be liable, on conviction before a Justice of the Peace, to a penalty not exceeding fifty rupees.

**XXVIII.** It shall not be necessary, in support of any information for gaming in, or for suffering any games or gaining in, stakes unnecessary. or for keeping or managing, or being concerned in the management or conduct of, any common gaming-house or place, under this Act, to prove that any person found playing at any game was playing for any money, wager, or stake.

**XXIX.** Where any cards, dice, balls, counters, tables, or other instruments of gaming, used in playing any unlawful game, are found in any house, building, room, or place suspected to be used as a common gaming-house or place, and entered by an order issued under this Act, or about the person of any who are found therein, it shall be evidence, until the contrary is made to appear, that such house, building, room, or place, is used as a common gaming-house or place, and that the persons found in the house, building, room, or place, where such tables or instruments of gaming shall have been found, were playing therein, although no play was actually going on in the presence of the Superintendent, Deputy Superintendent, Inspector, or Constable entering the same as aforesaid.

**XXX.** Every person who shall game for money, or any other thing or reward whatsoever, or who shall join in, bet at, or abet, or be present for the purpose of joining, betting at, or abetting any such gaming, in any street or public thoroughfare in the said Town, shall be liable, on conviction thereof before a Justice, to a penalty not exceeding fifty rupees, or, in default of payment, to imprisonment for any term not exceeding one Calendar month.

Gambling in the Streets.

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**XXXI.** All persons who deal in any articles by retail by weight or measure, and who have in or about their shops or premises, or otherwise in their possession, any false or deficient weight, measure, beam or scale, shall be liable, on conviction before a Justice of the Peace, to a penalty not exceeding twenty rupees, or, at the discretion of the said Justice, to imprisonment, with or without hard labour, for any period not exceeding one Calendar month ; and every such false and defective weight, measure, beam or scale shall be forfeited, and the said Justice shall cause the same to be destroyed ; and it shall be lawful for the Chief Magistrate or Superintendent of Police from time to time to issue public notices at the Police Office and Thannas, and such places as to him appear suitable, of the exact weight and measure of just weights and measures, and to keep at the Police Office and Thannas standard weights and measures for the information of the public.

**XXXII.** Any Justice of the Peace or the Superintendent of Police may issue his warrant, directing any Deputy Superintendent or Inspector of Police to enter into any shop or other place where articles are bought and sold by retail, and to search for and to examine the weights and measures therein, and seize all such as he may suspect to be forfeited as false and deficient in weight.

**XXXIII.** If any seaman, whether British or Foreign, shall, willfully and without leave or lawful excuse, absent himself from his vessel, any Justice of the Peace, upon complaint upon oath, and at the instance of any of the officers of the said vessel, may issue his warrant to apprehend and detain the said seaman and convey him on board of his vessel ; and whenever any seaman shall have been imprisoned, it shall be lawful for any Justice of the Peace, on the release of such seaman from imprisonment,

Justice of the Peace  
may take cognizance of  
cases of desertion or un-  
authorized absence from  
their ship of Foreign and  
Asiatic seamen.

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imprisonment, to cause him to be conveyed on board of the vessel to which he may belong.

**XXXIV.** No person, not being a soldier or sailor in the service of the Queen or the East India Company, or a Constable belonging to the Calcutta Police, shall be entitled to carry any sword, spear, gun, or other offensive weapon in any street, thoroughfare, or public place, unless by leave of the Chief Magistrate or other head of the Police ; and any person offending against this enactment, shall be liable to be disarmed by any Constable or other person acting under such instructions as shall be from time to time given by the Chief Magistrate or other head of the Police ; and the weapons so seized shall be taken before the Chief Magistrate or other head of the Police, and forfeited to the Government, if the Chief Magistrate or other head of the Police, in his discretion, shall think fit to declare them forfeited.

**XXXV.** The Chief Magistrate or other head of the Police, from time to time, and as occasion may require, may make regulations for keeping clear the public ghauts and landing-stairs, and for the route to be observed in the public streets and places by all carts, carriages, palanquins, hackeries, and other vehicles, and by all horses, cattle and persons, and as to the times during which they may take the said routes, and for preventing obstruction of the streets and thoroughfares within the Town on all times of public processions and native holidays, as also during the time of Divine Service, and also may give directions to the Constables and other Peace Officers for keeping order and for preventing any obstruction of the thoroughfares in the immediate neighbourhood of any place of public resort, and in any case when the ghauts, landing-stairs, streets, or thoroughfares may be thronged, or may be liable to be obstructed, and every person opposing or not obeying the orders so issued by the Chief Magistrate

The regulation of carriages and persons at places of public resort.

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trate or other head of the Police, shall be liable to be arrested and detained by the Police, and, on conviction before a Justice of the Peace, shall be liable to a penalty of one hundred rupees.

Police Officers taking Bribes. **XXXVI.** Any Police Officer or Constable who shall ask for or take any bribe or unauthorized reward in consideration of his doing or omitting to do any act in his official capacity, shall be liable, on conviction before a Justice of the Peace, to a penalty not exceeding five hundred rupees, or, at the discretion of the said Justice, to imprisonment, with or without hard labour, for any time not exceeding three months.

As to manufacture or possession of Gun-powder or Gun-cotton. **XXXVII.** The Rule, Ordinance, and Regulation passed by the Governor General in Council on the 8th April 1802, and Section II. Act XVIII. of 1841, are hereby repealed. Any person who shall, within the limits of the said Town, manufacture Gun-powder or Gun-cotton, or who shall, without a licence for that purpose being first had and obtained from the Chief Magistrate, have in his possession, in any house, shop, warehouse, or other building, at any one time, a greater quantity of Gun-powder or Gun-cotton for sale or otherwise than ten pounds, shall, on conviction before a Justice of the Peace, be liable to a forfeiture of all such Gunpowder or Gun-cotton so manufactured or possessed, together with the vessel or receptacle in which it may be seized, and also to a fine not exceeding in amount the sum of rupees five hundred.

Chief Magistrate to grant licences for sale and deposit of Gun-powder, &c. **XXXVIII.** It shall be lawful for the Chief Magistrate to grant to any person (whom he shall deem fit and proper) a licence for the sale or keeping in deposit, within the limits of the said Town, any quantity of imported or Indian manufactured Gun-powder not exceeding fifty pounds, or any quantity

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quantity of Gun-cotton not exceeding twenty pounds, on such conditions as shall be specified in the licence, and any person who shall be guilty of a breach of any of such conditions, shall, on conviction before a Justice of the Peace, be liable to a forfeiture of his licence and of all Gunpowder or Gun-cotton so kept in deposit contrary thereto, and also to a fine not exceeding rupees two hundred.

### XXXIX. Every such licence as is mentioned in the preceding Section shall be in force for a period of one year only

Licences to be in force for one year, and to contain certain provisions.

and no longer, but shall be renewable by the said Chief Magistrate at his discretion on the same or any other terms and conditions, and such licence shall also provide for the transit and carrying of Gun-powder from one place to another within the limits of the said Town, in such manner and in such quantity as shall be deemed advisable for the safety of the inhabitants and of property within the said Town, and every person offending against such provisions shall be liable to a fine not exceeding rupees fifty.

### XL. Any Justice of the Peace, on credible information laid before

As to Search for Gun-powder, &c.

him on oath or solemn affirmation, that Gun-powder or Gun-cotton, or mixed materials for making the same

contrary to the provisions of this Act, are suspected to be stored, kept, or possessed by any person, may issue his warrant, authorizing any Police Officer to search in the day-time any house, shop, magazine, or other building or place in which he has reasonable ground to suspect any Gunpowder or Gun-cotton to be manufactured, sold, or kept, or any boat, carriage, cart, or other vehicle in which any Gun-powder or Gun-cotton, or materials for manufacturing the same, may be suspected to be carried, or any person suspected of carrying the same contrary to such licence or to the provisions of this Act, and all Gun-powder, Gun-cotton, or materials for manufacturing the same, found on such search, shall, together with the

vessels

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vessels or receptacles in which they may be stored, be immediately seized and brought before a Justice of the Peace, with whom the same shall be kept till it shall be adjudged whether the same shall be forfeited.

**XLI.** The four last preceding Sections shall not extend to any Go-

Act not applicable to Government Powder, &c. vernment Magazine or store, or building for the making or deposit of Gun-powder or Gun-cotton under the authority or for the use of the Government, or to any Gun-powder or Gun-cotton for the use of Her Majesty's or the East India Company's Troops, or otherwise for the service of Government, or to any of Her Majesty's Vessels of War, or the Vessels of the Indian Navy, or of the East India Company's Marine, or to any other Vessel within the River Hooghly laden with Gun-powder for importation or exportation.

**XLII.** Commanders of merchant vessels entering the River Hoogh-

As to Vessels arriving in River with Powder on Board. ly shall, on or before the arrival of their vessels off Moyapore, deposit in the Magazine at that place

all Gun-powder intended for the Ship's use from on board their respective vessels, exceeding the quantity of fifty pounds, which quantity they shall be permitted to retain in their vessels for the purpose of firing salutes or signals in case of distress, and the Gunpowder so deposited shall be again delivered on board on the return of the respective vessels from Calcutta in prosecution of the outward voyage; and Commanders of merchant vessels in the River Hooghly having on board their vessels Gun-powder or Gun-cotton for importation (not being Gun-powder belonging to the Government) exceeding the quantity of fifty pounds, shall also deposit the same, on or before the arrival of their vessels off Moyapore, in the Magazine of that place, under charge of an Officer belonging to the Customs at that place, or such other person as the Governor of Bengal may appoint, and the proprietors

or

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or consignees of such Gun-powder or Gun-cotton, or their agents, whenever they shall desire to remove the same from the Magazine, shall make application to the Collector of Sea Customs for authority to do so, which application, when it be intended that such Gun-powder or Gun-cotton shall be lodged in any place, or be laden in any boat or other conveyance within the limits of the said Town, shall be accompanied by a written order of permission, signed by a Justice of the Peace, to that effect, and when it be intended that such Gun-powder or Gun-cotton shall be exported by sea, the Commanders of vessels, or the proprietors or their agents, by whom it shall have been deposited in the Magazine, shall make application to the Collector of Sea Customs for permission so to export it; and the Collector of Sea Customs shall comply with such applications aforesaid, except where the exportation of ammunition shall require, under provisions of Act XVIII. of 1841, a licence from a public Officer other than the Collector of Sea Customs, in which case the Collector of Sea Customs shall not comply with the application unless it be accompanied by the licence of such public Officer; and on or before the removal of all Gun-powder or Gun-cotton from the Magazine, the Collector of Sea Customs shall and he is hereby authorized to levy a fee, the rate of which shall not exceed two annas per pound, for all Gun-powder or Gun-cotton that has been lodged therein, which fee shall be taken to cover all charges for the safe custody of the Gun-powder or Gun-cotton during the period it has remained or shall remain in the Magazine; provided also, that the Governor of Bengal shall be at liberty to authorize such arrangement to be made, by letting or otherwise contracting for the custody of the Magazine, and for the collection and appropriation of the fees which may be charged for Gun-powder or Gun-cotton stored therein, as he may think proper, subject however to all the restrictions and rules imposed by this Section in respect to the removal from the Magazine of Gun-powder therein stored.

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**XLIII.** For every act done or omitted to be done contrary to  
the provisions of the last preceding Section by the Com-  
mander of any merchant vessel in the port of Calcutta,  
Penalties.

the Commander aforesaid shall, on conviction thereof before any Justice of the Peace, be liable to a penalty of two hundred rupees: and the Collector of Sea Customs is hereby empowered to search for any quantity of Gun-powder which he may have reason to believe to be on board a merchant vessel in the port of Calcutta, contrary to the provisions of this Act, and to seize and detain it as forfeited to Government, to be dealt with as the Governor of Bengal shall think right to direct.

**XLIV.** The jurisdiction of the Justices of the Peace acting within  
the said Town shall extend to all offences committed by any person in sea-going vessels in any part of the River Hooghly, and the said Justices shall have the same power and jurisdiction in respect of criminal offences committed in sea-going vessels, in any part of the said river, that they now have and exercise within the said Town.

**XLV.** Every Officer belonging to the Calcutta Police is hereby authorized to arrest with a warrant any person committing in his view any offence against this Act, and every person taken into custody without warrant by any Constable belonging to the Calcutta Police, shall be forthwith taken to the Station-house to which the Constable belongs, in order that such person may be detained, until he can be brought before a Justice of the Peace to be dealt with according to law, or in order that such person may give bail for his appearance before a Justice of the Peace, if the Superintendent, Deputy Superintendent, or Inspector at the Station shall deem it prudent to take bail in the manner hereinafter mentioned, which he is hereby authorized to do.

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**XLVI.** Whenever any person is brought to the Station-house as

Power to take recogni-  
zances at Station-houses  
or Police Lock-up on cer-  
tain charges.

aforesaid charged with misdemeanor, assault, or with having carelessly done any hurt or damage, or whenever any Superintendent, Deputy Superintendent, or

Inspector of Police, or Town Serjeant in charge of a Police Lock-up, shall deem it probable that any person so brought is falsely or maliciously charged with having committed a felony, and any such person as aforesaid shall be, without the warrant of a Magistrate, in the custody of any Constable of the Calcutta Police, it shall be lawful for the Superintendent or any Deputy Superintendent of Police, if he shall deem it prudent, to enlarge such person on his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

**XLVII.** Every recognizance so taken shall be without fee or reward,

Condition of recogni-  
zance. and shall be conditioned for the appearance of the person thereby bound before a Justice of the Peace at his

next sitting, and the time and place of appearance and the sum thereby acknowledged (not exceeding one thousand rupees) shall be specified in the said recognizance, or the condition thereof; and the Officer taking the recognizance shall enter into a book, to be kept for the purpose, the name, residence, and occupation of the party and his surety or sureties (if any) entering into such recognizance, together with the condition thereof, and the sum thereby acknowledged, and shall return every such recognizance to the Justice present at the time and place and when and where the party is bound to appear, and the said recognizance may be in either of the forms, as the case may be, in Schedule (A.) to this Act annexed, or to the like effect.

**XLVIII.** In every case in which any person shall be given in

Amends may be award-  
ed for false or malicious  
charges.

charge to a Constable, or in which any information or complaint of any offence shall be laid or made before

any

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any Justice of the Peace, and it shall appear to the Justice by whom the case shall be heard that there was no sufficient ground for making the charge, it shall be lawful for such Justice, at his discretion, to award such amends, not more than the sum of fifty rupees, to be paid by the informer to the party informed or complained against, for his loss of time and expenses in the matter, as to the Justice shall seem meet.

### XLIX. Every Justice of the Peace shall be empowered summarily

Offences how to be tried. to hear and determine every complaint of an offence committed against this Act, and to convict any person charged with any such offence on the oath of one or more witnesses, or by his own confession, and to award the penalty or punishment herein provided for such offence.

### L. Upon any information or complaint to be laid or made before

Justices may proceed by summons, and if party does not appear may issue warrant. any Justice of the Peace (which complaint need not be made upon oath) of any matter which such Justice is authorized to hear and determine, either under this or

any other Act or Regulation, he may summon the party charged, and if such party shall not appear according to the tenor of the summons, the Justice, upon proof of the service of the summons, may proceed, in all cases which are not of a criminal nature, if no sufficient cause shall be shown for the non-appearance of the party, to hear and determine the case in the absence of the party, and in all criminal cases shall issue his warrant for apprehending and bringing such party before him or some other Justice, in order that the said information and complaint may be heard and determined.

### LI. Every such summons may be served by delivering it or a copy

How summons may be served. thereof to the party, or to his wife, servant, or some inmate of his dwelling, or by delivering it at or affixing it to the door or wall of his usual place of abode.

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**LII.** A Justice of the Peace may, without issuing any summons, Justices may issue warrant without summons. forthwith issue his warrant for the apprehension of any person charged with any offence cognizable before him, either under this or any other Act or Regulation, whenever good grounds for so doing shall be stated on oath before him.

**LIII.** Any Justice may summon any witness to appear and give evidence upon the matter of any offence cognizable before him, either under this or any other Act or Regulation, with which any person shall be charged before him, at a time and place appointed for hearing the information or complaint, and, by warrant under his hand and seal, may require any person to be brought before him who shall neglect or refuse to give evidence at the time and place appointed on such summons, proof upon oath being first given of personal service of the summons upon the person against whom such warrant shall be granted, and such Justice may commit any person coming or brought before him who shall refuse to give evidence, to the Common Gaol of Calcutta, for any time not exceeding fourteen days, or until such person shall sooner submit himself to be examined, and in case of such submission the order of such Justice shall be a sufficient warrant for the discharge of such person.

**LIV.** When any Justice of the Peace is desirous of examining any prisoner confined in the Great Gaol or House of Correction as a witness or defendant, with respect to any charge, case, or proceeding pending before him, it shall be lawful for such Justice to issue an order in the form contained in Schedule (B.) to this Act annexed, or to the like effect, addressed to the Keeper or Governor of the said Gaol or House of Correction, requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Police Office, for examination, and the Keeper or Governor of the said

Power to Magistrates to order prisoners to be brought up to the Police Office.

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## ACT No. XIII. OF 1852.

Gaol or House of Correction, on the receipt of such order, shall act in accordance therewith, and shall take care for the safe custody of the prisoner during his absence from prison for the purpose aforesaid.

**LV.** All penalties and forfeitures and other sums of money imposed, Recovery of penalties and forfeitures. awarded, or ordered to be paid by any Justice of the Peace under the authority of this Act, and all sums of money which any person is bound to pay under any recognizance taken before a Justice of the Peace or an Officer of Police empowered to take recognizances by this Act, and afterwards forfeited, in case of non-payment thereof, may be levied by distress and sale of the goods and chattels of the offender or person liable to pay the same, by warrant under the hand of any Justice of the Peace, and in case any such penalty or forfeiture or sum of money shall not be forthwith paid, any Justice may order the party to be detained in safe custody until the return can be conveniently made to such warrant of distress, unless such party shall give security to the satisfaction of such Justice for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and the Justice may take such security by way of recognizance or otherwise ; and if upon the return of such warrant it shall appear that no such sufficient distress could be had whereon to levy the said penalty or forfeiture, or sum of money, and the same shall not be forthwith paid, or in case it shall appear, to the satisfaction of the Justice, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such penalty, forfeiture, or sum of money could be levied if warrant of distress should be issued, the Justice, by warrant under his hand, may commit such party to the Common Gaol of Calcutta, there to remain for any time not exceeding two Calendar months.

**LVI.** No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only Convictions to be quashed on merits only. Form of conviction, &c. on the merits ; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence

## ACT NO. XIII. OF 1852.

dence on which it proceeds ; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*, and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

**LVII.** In the construction of this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the context or subject repugnant to such construction ; that is to say,

Words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular.

Words importing the masculine gender only shall include females.

The word “Town” shall include the Town of Calcutta and Settlement of Fort William.

The word “Justice” or “Justices of the Peace” shall mean the Justices of the Peace for the time being acting within and for the said Town of Calcutta and Settlement of Fort William.

The word “Oath” shall mean any oath or solemn affirmation in lieu of an oath.

### S C H E D U L E A.

#### FORM 1.

Town of } Be it remembered that on the day of in the year *A. B.*, of  
Calcutta. } and *C. D.*, of and *E. F.*, of personally came  
before me *G. H.*, *Superintendent of Police*, and acknowledged themselves to  
owe to our Sovereign Lady the Queen ; that is to say, the said *A. B.*, the  
sum of Rupees *Two Hundred*, and the said *C. D.* and *E. F.* each the sum  
of Rupees *One Hundred*, separately, and of good and lawful money of  
British India, to be made and levied of their Goods and Chattels, Lands  
and Tenements respectively, to the use of our said Lady the Queen, Her  
heirs and successors, if the said *A. B.* shall make default in the condition  
hereinunder written. Acknowledged before me, *G. H.*,

*Superintendent of Police.*

The

## ACT No. XIII. OF 1852.

The condition of the above written recognizance is such that *if the said A. B. shall appear before J. P., Justice of the Peace, at 10 o'clock in the morning of the      day of      in the year      at the Police Office in Calcutta*, then the said recognizance to be void, or else to stand in full force and virtue.

### FORM 2.

Town of } Be it remembered that on the      day of      in the year      *A. B.*, of  
Calcutta.      } personally came before me *G. H., Superintendent of Police*, and acknowledged himself to owe to our Sovereign Lady the Queen, the sum of Rupees *Two Hundred*, of good and lawful money of British India, to be made and levied of his Goods and Chattels, Lands and Tenements, to the use of our said Lady the Queen, Her heirs and successors, if he, the said *A. B.*, shall fail in the condition hereunder written.

Acknowledged before me,

*G. H.,*

*Superintendent of Police.*

The condition of the above written recognizance is such that *if the said A. B. shall appear before J. P., Justice of the Peace, at 10 o'clock in the morning of the      day of      in the year      at the Police Office in Calcutta*, then the said recognizance to be void, or else to stand in full force and virtue.

NOTE.—The words and figures in Italics in this Schedule to be filled up as the case may be.

### S C H E D U L E B.

#### FORM OF ORDER.

To *A. B., Keeper of the Great Gaol of Calcutta, or Governor of the House of Correction, as the case may be.*

Bring before me in safe custody on the      day of  
in the year      *C. D.*, a prisoner now in the (*Great Gaol or House of Correction as the case may be*) in order that the said *C. D.* may be examined by me as a (*witness or defendant*) with respect to (*here state the charge, case or proceeding in respect of which the evidence of the prisoner is required.*)

*E. F.,*

*Justice of the Peace.*



## ACT No. XIV. OF 1852.

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*Passed by the Governor General of India in Council on  
the 27th February 1852.*

*An Act for extending the provisions of Acts XXIV. of 1841, and  
XVII. of 1843, to the Straits Settlement.*

WHEREAS doubts have been entertained whether Acts XXIV. of 1841, and XVII. of 1843, are in force in the Settlement of Prince of Wales' Island, Singapore and Malacca; It is hereby enacted as follows:

I. The provisions of Acts XXIV. of 1841, and XVII. of 1843, shall be applicable and in force in the said Settlement.

II. All provisions contained in Act XXIV. of 1841, and Act XVII. of 1843, relating to Her Majesty's Supreme Courts shall be applicable to the Court of Judicature of the said Settlement, and shall be respectively construed as if, instead of the words Her Majesty's Supreme Courts, or Her Majesty's Supreme Courts of the respective Presidencies, or the Supreme Court of each of the Presidencies, the words, "the Court of Judicature of Prince of Wales' Island, Singapore and Malacca," had been therein mentioned.



FORT WILLIAM,  
H O M E D E P A R T M E N T,  
LEGISLATIVE,  
THE 30TH JANUARY, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 30th January 1852.

ACT NO. —— OF 1852.

*An Act for the execution of decrees made by Her Majesty in Council, or by the Courts of Sudder Dewanny Adawlut in the Presidency of Bengal.*

Whereas it is expedient to amend the law relating to the execution of decrees made and passed by Her Majesty in Council, and by the Courts of Sudder Dewanny Adawlut in the Presidency of Bengal, It is hereby enacted as follows :

I. Every decree or order made or passed in appeal by Her Majesty in Council, or by any Court of Sudder Dewanny Adawlut, in the Presidency of Bengal, shall be enforced and executed by the Court of original jurisdiction which made or passed the first or original decree or order in the case appealed, and such last-mentioned Court shall proceed to enforce and execute such decree or order according to the laws and rules prescribed for the execution of its own decrees or orders, anything in Section XV., Regulation XXVI. of 1814 to the contrary notwithstanding.

II. Any party desirous of enforcing or obtaining execution of any such decree or order made or passed in appeal as aforesaid, shall present a petition for that purpose to such Court of original jurisdiction as aforesaid, and the said petition shall be accompanied by a certified copy of the decree or order made in appeal, and sought to be enforced or executed.

III. An appeal shall lie from all orders made by such Court of original jurisdiction relating to the enforcement or execution of any such decree, or order made or passed in appeal as aforesaid.

aforesaid. If such Court of original jurisdiction is the Court of a Judge, such appeal shall lie to the Court of Sudder Dewanny Adawlut, and if such Court of original jurisdiction is the Court of a Moonsiff or Sudder Ameen, the appeal shall lie in the first instance to the Court of the Judge competent to hear it, and specially, in cases where a special appeal will lie, to the Court of Sudder Dewanny Adawlut. If such Court of original jurisdiction is the Court of a Principal Sudder Ameen, and the case is one which was brought to recover money or property exceeding Rupees five thousand in value, such appeal shall lie to the Court of Sudder Dewanny Adawlut, and if the case is one which was brought to recover money or property of less value than Rupees five thousand, such appeal shall lie in the first instance to the judge competent to hear it, and specially, where a special appeal will lie, to the Court of Sudder Dewanny Adawlut.

IV. Nothing herein contained shall be construed so as to prevent any Court of Sudder Dewanny Adawlut from enforcing or obtaining execution of a decree or order made or passed by Her Majesty in Council, if Her Majesty in Council shall think fit to decree or order the said Court of Sudder Dewanny Adawlut to enforce or execute the same.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first meeting of the Legislative Council of India after the 30th day of March next.

FRED. JAS. HALLIDAY,  
*Secy. to the Govt. of India.*



Home.

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## DRAFT ACT

*For the execution of decrees made by Her Majesty in Council, or by the Courts of Sudder Dewanny Adawlut in the Presidency of Bengal.*

*Read in Council for the first time on the 30th January 1852.*

*Ordered to be re-considered after the 30th day of March next.*

Cons.

No.

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 30TH JANUARY, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 30th of January 1852.

ACT NO. —— OF 1852.

*An Act to amend the Law relating to the duties payable on Tobacco and Ganza, and the retail sale and warehousing thereof, in the Islands of Bombay and Colaba.*

Whereas it is expedient to amend the law relating to the duties payable on Tobacco and Ganza, and the retail sale and warehousing of those articles in the Islands of Bombay and Colaba, It is hereby enacted as follows :

I. Chapters V. VI. VII. and VIII. of Regulation XXI. of 1827, Regulation XXXIII. of 1827 and Regulation XV. of 1828, of the Bombay Code, and Act XXIV. of 1850, are hereby repealed, but not so as to revive any other Regulation or Act thereby repealed.

II. All Tobacco and Ganza (except such small quantities thereof as are hereinafter mentioned), imported from any place into the Islands of Bombay and Colaba, shall be liable to the duty prescribed by the Acts now in force for regulating Customs, which duty is hereinafter called the customary duty. All Tobacco and Ganza (except such small quantities thereof as are hereinafter mentioned), imported from any place into the said Islands and intended for consumption in Bombay or Colaba, shall be liable to an additional duty of Rupees seven and eight annas per Indian Maund, which duty is hereinafter called the special duty.

III. The said special duty shall be paid at the option of the importer, either on importation, or after being warehoused as hereinafter mentioned, and no drawback of the said special duty shall be allowed unless the Tobacco or Ganza, on which such drawback may be claimed, has been warehoused in, and shall be re-exported from, a bonded warehouse, in which case a drawback of the whole of such special duty shall be allowed, if claimed at the time of exportation.

IV. If

IV. If the said special duty is not paid on importation, the Tobacco or Ganza shall be warehoused in a bonded warehouse, and the importer shall pay such special duty on the said Tobacco or Ganza on its removal from the warehouse for consumption.

V. The Collector and Officers of Customs shall have all the same powers and authorities for collecting and enforcing payment of the said duties, in addition to the powers and authorities specified in this Act, as they now have or shall have in respect of the duties on any other customable articles.

VI. It shall not be lawful, without the special permission of the Collector of Customs, to bring any Tobacco or any preparation thereof, or any Ganza, into the Islands of Bombay and Colaba, otherwise than by sea, nor to land the same at any other landing place or places than such as may from time to time be prescribed by proclamation by the Bombay Government.

VII. Sections II., III., IV. and VI. of this Act shall not be applicable to small quantities of Tobacco and Ganza imported into the said Islands, not exceeding in quantity 1 pound weight of Tobacco, or half a pound weight of Ganza, provided that the same be openly imported for the personal consumption of the importer.

VIII. The port of Bombay shall be a warehousing port, within the meaning of Act XXV. of 1836, so far as regards the warehousing of Tobacco and Ganza, and the said Act shall be applicable to the warehousing of Tobacco and Ganza in the said Islands of Bombay and Colaba, and the Import duty in the said Act mentioned shall, as to Tobacco and Ganza, mean the customary and special duty leviable under this Act.

IX. It shall not be lawful to remove any Tobacco or Ganza from any place within the Islands of Bombay and Colaba to any other place, nor to carry or convey the same on any thoroughfare in the said Islands, nor to carry the same on any vessel or boat of less than forty candies' burthen in any of the creeks or waters adjacent to the said Islands, without a permit from the Collector of Customs, which permit may be in the form of Schedule A. to this Act annexed, or to the like effect. Any such permit shall be in force only between sun-rise and sun-set of the day on which it is granted. Provided always, that Tobacco and Ganza may be imported as in Sections IV. and V. of this Act is mentioned, and it shall also be lawful to remove without a permit, for personal or domestic use, small quantities of Tobacco and Ganza from the shop of a retailer licensed as hereinafter provided, or to carry Tobacco and Ganza on boats or vessels of less than forty candies' burthen proceeding direct from a regular anchorage in the harbour to any place duly appointed for landing Tobacco and Ganza.

X. The

**X.** The Collector of Customs shall not grant any permit for the removal of any Tobacco or Ganza from a bonded warehouse, unless the quantity to be so removed is an entire bale or package weighing in the case of Tobacco at least four Cwt., and in the case of Ganza at least half a Cwt., but when application is made to remove a bale or package from bond for consumption in Bombay or Colaba, the Collector may permit such bale or package to be opened, and the refuse of the Tobacco and Ganza to be removed and destroyed in the presence of a Government Officer, and the special duty may be remitted on the refuse so removed and destroyed.

**XI.** It shall not be lawful for any person to sell or offer for sale by retail any Tobacco or Ganza within the Islands of Bombay and Colaba without a licence for that purpose under the hand and seal of the Collector of Customs, or other licensing Officer specially appointed by the Bombay Government, and the licence may be in the form of Schedule B to this Act annexed, or to the like effect, and shall be in force for a period of twelve calendar months from the date thereof, unless earlier withdrawn or cancelled by the

licensing Officer, and for every such licence the Collector of Customs, or other licensing Officer, shall receive on account of Government a fee of one Rupee.

**XII.** Every person applying for the renewal of any licence for the retail sale of Tobacco or Ganza shall give notice of such application at least ten days before the expiration of his existing licence, and on failing to give such notice he shall, previous to the renewal of his licence, pay to the licensing Officer, on account of Government, the sum of Rupees twenty.

**XIII.** Any sale of Tobacco not exceeding in weight fifty-six lbs. Avoirdupois, or of Ganza not exceeding twenty-eight lbs. Avoirdupois, shall be deemed to be a retail sale within the meaning of this Act.

**XIV.** It shall not be lawful for any licensed retail dealer in Tobacco or Ganza to carry on the retail sale of the same, or to warehouse or deposit any store of the same except at such shop, shops, or other premises as may be specified in his licence, and the name of every retail dealer in Tobacco or Ganza, together with the number of his licence, shall be written or painted in English, Guzerati and Maharatti, and in plain and legible characters of not less than one inch in height, on a board to be affixed in a conspicuous manner in the front of the shop or premises where the retail sale of the articles aforesaid may be carried on.

**XV.** Every retail dealer in Tobacco or Ganza shall on or before the third day of each month make to the Collector of Customs, or other licensing Officer,

Officer, a separate Return, for each shop or place of retail sale, of the quantity of Tobacco or Ganza which he had on hand at the beginning of the preceding month, and also of the balance remaining in hand at the close of such month, and he shall in like manner and at the same time, produce and give to the Collector of Customs or other licensing Officer, a written Statement showing the several purchases of Tobacco or Ganza which he shall have made during the preceding month, and the parties from whom and the dates on which such purchases were effected, and any licensed retail dealer who may refuse or neglect to produce such Return and Statement as above provided, or who may produce a false Return or Statement, shall be liable to be deprived of his licence by the said Collector of Customs or other licensing Officer, in addition to such fine as he may incur under this Act.

XVI. It shall be lawful for the Collector of Customs or other licensing Officer at his discretion to refuse to grant or renew any licence for the retail sale of Tobacco or Ganza to any party applying for the same, or on giving three months' notice, to withdraw any such licence from the holder thereof, without stating any reason for such refusal or withdrawal.

XVII. It shall be lawful for the Collector of Customs or other licensing Officer to issue a special warrant under his hand and seal, authorizing any public Officer to enter any building or place of deposit in which Tobacco or Ganza may be deposited under the provisions of this Act; or in which such Collector of Customs or other licensing Officer has been credibly informed that such Tobacco or Ganza has been and is deposited contrary to the provisions of this Act; and for such purpose such public Officer shall have power, if necessary, to break open any doors, drawers, or other place or receptacle or supposed

receptacle, and to examine and weigh any Tobacco or Ganza therein found, and to seize, remove and take away from thence any Tobacco or Ganza or other articles subject to confiscation under this Act, and to detain the same until the case has been adjudicated on, as hereinafter provided.

XVIII. It shall be lawful for the Collector of Customs or other licensing Officer, or any Officer authorized by him, to enter and search, with the like power as in the last Section mentioned, any vessel, boat or vehicle suspected of containing, and to detain any person suspected of having, any contraband Tobacco or Ganza, and to seize, take away, and detain the same until the case has been adjudicated as herein-after provided.

XIX. All Tobacco or Ganza imported into the Islands of Bombay and Colaba, or exported thence, or there warehoused, or removed from one place

of deposit to another, contrary to the provisions of this Act, or found in the possession of any party in Bombay or Colaba, illegally selling or offering any portion thereof for sale, shall be liable to confiscation to Government together with every vessel in which it is contained, and every vehicle, vessel, boat, or animal employed with the consent and knowledge of the owner or his servant in conveying or containing the same ; Provided always that it shall be lawful for the adjudicating Officer to mitigate the penalty of confiscation herein provided, by commuting the same to the payment of any fine not exceeding the value of the goods liable to confiscation, and every such fine may be enforced, if necessary, by the sale of the goods liable to confiscation.

XX. Any person who shall illegally import, export, remove or sell in Bombay or Colaba, any Tobacco or Ganza, or who shall knowingly have in his or her possession, or shall conceal or smuggle any Tobacco or Ganza subject to confiscation under this Act, or who shall commit or knowingly aid in the commission of, or abet any breach of this Act, shall be liable to a fine not exceeding ten times the value of such Tobacco or Ganza, and in default of payment of such fine, such offender shall be liable to imprisonment for any term not exceeding six calendar months, unless such fine shall be sooner paid.

XXI. It shall be lawful for any Officer appointed by the Bombay Government for that purpose to declare and adjudge any Tobacco, Ganza, or other property seized, taken or detained under this Act to be forfeited and confiscated to Government.

XXII. All fines under this Act may be enforced and levied by any Magistrate of Police under Act II. of 1839.

#### SCHEDULE A.

##### *Form of Permit.*

Tobacco Permit, Bombay Custom House.  
No. the  
A. B. has been permitted to remove from  
(*Custom House or Licensed Warehouse or shop*  
No. *situated in Kalbadavie Street to Warehouse or shop No.* *in Bazar Street*) the under-  
mentioned quantity of (*Tobacco or Ganza*)  
between sun-rise and sun-set on the      day  
of      in the year

(Signed)    H. YOUNG,  
*Collector of Customs.*

(NOTE.—The words in Italics in this Schedule  
to be filled up as the case may be.)

#### SCHEDULE B.

## SCHEDULE B.

*Form of Licence to retail Tobacco or Ganza.*

**LICENCE TO RETAIL TOBACCO OR GANZA.**

*Bombay Custom House.*

This is to certify that *A. B.* having applied for a licence for the retail sale of (*Tobacco or Ganza*) under Act of 1852, such Licence is hereby granted on the following conditions :

1st. That such retail sale under this Licence be conducted only at the shop or premises known as No. *Street.*

2nd. That such retail sale shall be carried on only between the hours of 6 A. M., and 10 P. M.

3rd. That a Return be furnished on or before the third day of each month, to the Collector of Customs, as provided for in Section XV. of this Act.

4th. That the retail sale of (*Tobacco or Ganza*), effected at the above described premises, shall amount monthly to a total quantity of at least —

**NOTE.—**This Licence will be in force for 12 (twelve) months after date, and no longer.

The words in Italics in this Schedule to be filled up as the case may be, and the first blank space therein with the number of this Act, the second blank space therein with the number of the house and name of the Street or place in which the retailer carries on his trade, and the third blank space therein with the quantity of Tobacco or Ganza, to be sold by retail.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first Meeting of the Legislative Council of India, after the 30th April 1852.

**FRED. JAS. HALLIDAY,**  
*Secy to the Govt. of India.*



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## **DRAFT ACT**

*To amend the Law relating to the duties payable  
on Tobacco, and Ganza, and the retail sale and  
warehousing thereof, in the Islands of Bombay  
and Colaba.*

*Read in Council for the first time on the 30th  
of January 1852.*

*Ordered to be re-considered after the 30th April  
1852.*

*Cons.*

*No.*

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 6TH FEBRUARY, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 6th of February 1852 :

ACT No. —— OF 1852.

*An Act for the better regulation of Cantonments.*

For the better regulation of Cantonments, it is hereby enacted as follows:—

I. Any person, whether European or Native, not being a Sutler, or amenable to the Articles of War, or a Camp Follower, who shall convey or attempt to convey any liquor, wine, or intoxicating drugs of any description into any Military Cantonment or Bazar without a written authority from the Officer Commanding at the Station, or who shall, without such authority, sell or supply the same to any European Soldier or European Woman in any such Cantonment or Bazar, shall be liable on conviction before any Magistrate or Justice of the Peace, or such other Officer as the local Government shall think fit to empower on that behalf, to a fine not exceeding Forty Rupees, or in the discretion of the said Magistrate, Justice, or other Officer, to imprisonment, with or without hard labour, for any period not exceeding two calendar months, and in case of conviction the said Magistrate, Justice, or other Officer may adjudge the said liquor, wine, or drugs, and the vessels containing the same, to be forfeited to Government, and may sell or otherwise dispose of the same for the benefit of Government.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first Meeting of the Legislative Council of India after the 6th day of May next.

FRED. JAS. HALLIDAY,  
Secy. to the Govt. of India.

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## **DRAFT ACT**

*For the better regulation of Cantonments.*

*Read in Council for the first time on the 6th  
of February, 1852.*

*Ordered to be re-considered after the 6th day  
of May next.*

*Cons.*

*No.*

FORT WILLIAM,  
H O M E D E P A R T M E N T,  
LEGISLATIVE,  
THE 6TH FEBRUARY, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 6th February 1852.

ACT NO. —— OR 1852.

*An Act to amend the Law regarding the taking of Mochulkas or Penal Recognizances in the Presidencies of Madras and Bombay.*

I. Whereas it is expedient to amend the law relating to the taking of Mochulkas or Penal Recognizances in the Presidencies of Madras and Bombay, It is hereby enacted as follows: Section V. Regulation IV. of 1827, of the Madras Code, is repealed.

II. In the territories subject to the Presidencies of Madras and Bombay, it shall be lawful for the Magistrates to take Mochulkas or Penal Recognizances in the form annexed to this Act, as well from British subjects as from other persons, in all cases wherein it may appear just and necessary to require the same for the maintenance of the peace in their respective jurisdictions, although the party to be bound in such recognizances may not have been convicted of any specific offence ; provided that the amount of the recognizance in all such cases shall be proportionate to the condition in life of the said party, and to the circumstances of the case.

III. In cases of an aggravated nature, wherein it may appear necessary to require security for keeping the peace in addition to the recognizance of the party, it shall be lawful for such Magistrates to direct the same, and to fix a reasonable amount for the security bond, to be executed in the form annexed to this Act by the surety or sureties.

IV. Whenever it shall appear to the Magistrate that the period for which the party should be bound to keep the peace, with or without additional security, need not exceed one year, it shall be lawful for him, without reference to superior authority, to give directions accordingly, and in default of such recognizance or additional security, to commit the party to prison in the Civil Jail until he shall do what has been required of him.

V. Whenever

V. Whenever it shall appear to the Magistrate that the period for which the party should be bound to keep the peace, with or without additional security, ought to exceed the period of one year, the Magistrate shall record his opinion to that effect, with an order specifying the amount of recognizance and security, as well as the number of sureties which should in his judgment be required, and the period for which the recognizance and security should be required, which however shall in no case exceed three years. If the party shall not furnish the recognizance and security so required, the proceedings shall be laid before the Sessions Judge, who, after examining them and calling for any further information which he may think necessary, shall pass orders on the case, confirming, modifying, or annulling the orders of the Magistrate; and if the orders so passed by the Sessions Judge confirm to any extent the requisition for recognizance or securities, the Sessions Judge shall direct the Magistrate to commit the party to prison in the Civil Jail until he shall do what has been required of him.

VI. Provided always, that no party shall be kept in prison under the foregoing provisions of this Act for a longer period than that for which the recognizance and securities have been required from him.

VII. The Magistrate may at his discretion, discharge recognizances and securities for keeping the peace taken by himself, and may order the release of persons confined under his own order for default in entering into such recognizances, or giving such securities.

VIII. Sureties for the peace shall at all times be discharged from further responsibility on delivering up to the proper Magistrate or Police Officer the persons for whom they have become responsible.

IX. Whenever it may be proved before the Magistrate that any such recognizance has been forfeited, he shall proceed to enforce the penalty of such recognizance in the mode prescribed for the satisfaction of decrees of the Civil Court.

X. Whenever it may be proved before the Magistrate that any such recognizance has been forfeited, if a security bond shall have been taken, and the Magistrate shall think that proceedings should be had upon such bond, he shall give notice to the surety or sureties to pay the penalty, or to show cause why it should not be paid, and if no sufficient cause shall be shown, the Magistrate shall proceed to recover the penalty from such surety or sureties by the attachment and sale of any of his or their property, in the mode prescribed for the attachment and sale of property in satisfaction of decrees of the Civil Court, and if the penalty be not paid, and cannot be recovered by such attachment and sale, such surety or sureties

sureties shall be liable to confinement by order of the Magistrate, in the Civil Jail of the station, during a period not exceeding six months.

XI. All sentences and orders passed under this Act shall be appealable, subject to the general provisions which regulate appeals.

**XII.** In the Territories subject to the said Presidencies, all Mochulkas and Security Bonds which by force of any Act or Regulation may be taken by Criminal Courts of the East India Company, or by Magistrates, for keeping the peace or for good behaviour, may be enforced in the manner prescribed by Sections IX. and X. of this Act.

XIII. Nothing in this Act contained shall be construed so as to repeal or otherwise affect the provisions of Sections XXIV. XXV. and XXVI. of Regulation XII. of 1827, of the Bombay Code, with respect to the recognizances or securities which may be taken for securing the attendance of witnesses and of the offenders therein mentioned.

### FORM OF MOCHULKA.

Whereas I inhabitant of  
have been called upon to enter into a Mochulka  
to keep the peace for the term of  
I hereby bind myself not to commit any act  
that can occasion a breach of the peace dur-  
ing the said term; and in case of my making  
default therein, I bind myself to forfeit to Govern-  
ment the sum of Rupees Dated

### FORM OF SECURITY.

Whereas an inhabitant of  
has been called upon to give security to keep  
the peace for the term of I here-  
by declare myself surely for the said  
that he shall not commit any act that can  
occasion a breach of the peace during the said  
term; and in case of his making default therein,  
I hereby bind myself to forfeit to Government  
the sum of Rupees Dated

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first Meeting of the Legislative Council of India, after the 6th day of May 1852.

**FRED. JAS. HALLIDAY,**  
*Secy. to the Govt. of India.*

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*Legislative.*

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## **DRAFT ACT**

*To amend the Law regarding the taking of Mochul-  
kas or Penal Recognizances in the Presidencies  
of Madras and Bombay.*

*Read in Council for the first time on the 6th  
of February 1852.*

*Ordered to be re-considered after the 6th day of  
May 1852.*

*Cons.*

*No.*

FORT WILLIAM,  
H O M E D E P A R T M E N T,  
LEGISLATIVE,  
THE 6TH FEBRUARY, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 6th day of February 1852.

Act No. —— of 1852.

*An Act to enable the Courts of Sudder and Nizamut Adawlut in the Presidency of Fort William to frame certain rules of practice.*

Whereas it is expedient to enable the Courts of Sudder and Nizamut Adawlut in the Presidency of Fort William to frame rules regulating the practice in their own Courts, and in the Courts subordinate to them, with respect to the amendment of pleadings, It is hereby enacted as follows :

I. It shall be lawful for the several Courts of Sudder and Nizamut Adawlut in the said Presidency to frame, and from time to time to amend, rules regulating the practice of their own Courts and of the Courts subordinate to them respectively, with respect to the insertion, omission or striking out of statements, or of the names of parties, in or from the pleadings filed in such Courts, and generally with respect to the amendment of pleadings.

II. The said rules, when framed or amended as aforesaid, shall be submitted to the Governor General of India in Council, and from and after their approval by the said Governor General of India in Council they shall be of the same force and effect as if they were inserted in this Act.

III. Where, under the said rules, an amendment of a pleading is allowed or rejected by a Court of first instance, an interlocutory appeal from such order of admission or rejection shall be allowed, within one month from the date of the order,

order, to the Court to which the decisions of such Court of first instance are regularly appealable, and the order of such Appellate Court on the interlocutory appeal shall be final.

IV. When any amendment of a pleading shall be allowed under the rules aforesaid, the said Courts may respectively make such order as to the costs payable in respect thereof, and as to the time of payment of such costs, as to the said Courts respectively may seem just; Provided always that no such costs shall be awarded in respect of any such amendment as aforesaid to a greater amount than the sum of rupees twenty-five in the Courts of the Moonsiffs and Sudder Ameens, or to a greater amount than the sum of rupees fifty in the Courts of the Judges and Principal Sudder Ameens, or to a greater amount than the sum of rupees one hundred in the Courts of Sudder Dewanny Adawlut; Provided always that the order of such Courts, awarding costs within the amounts aforesaid, shall be subject to no appeal.

Ordered that the Draft now read be published for general information.

Ordered, that the said Draft be reconsidered at the first meeting of the Legislative Council of India, after the 6th day of April next.

FRED JAS HALLIDAY,  
*Secy. to the Govt. of India.*



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*Dept.*

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A

## **DRAFT ACT**

*To enable the Courts of Sudder and Nizamut Adawlut in the Presidency of Fort William to frame certain rules of practice.*

*Read in Council for the first time on the 6th day of February 1852.*

*Ordered to be re-considered after the 6th day of April next.*

*Cons.*

*No.*

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 13TH FEBRUARY, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 13th of February 1852:

ACT NO. — OF 1852.

*An Act for the abolition of the Poll Tax, and for levying a tax on lands covered by dwelling-houses in Akyab and Kyouk Phyoo in Arracan.*

Whereas it is expedient to abolish the Poll Tax now levied within the Towns of Akyab and Kyouk Phyoo in the Province of Arracan, and instead thereof, to levy a tax upon land covered by dwelling-houses within the said Towns, It is enacted as follows :

I. From and after the        day of 1852, the levy of a Poll Tax, within the Towns of Akyab and Kyouk Phyoo, in the Province of Arracan shall cease.

II. From and after the said        day of 1852 the Commissioner in Arracan for the time being, shall from time to time, as he shall think fit, make an assessment on the owners of land covered by dwelling-houses within the Towns of Akyab and Kyouk Phyoo at the rate of one pie and a half a year for every square cubit of land covered by such dwelling-houses, and the amount of the said assessment shall be payable by the owners or occupiers of such lands by half-yearly payments of a moiety of the same, and the said half-yearly payments shall be made in advance, that is to say, at the commencement of each half-year in respect of which the same is due.

III. In case of non-payment of the amount of the said assessment, or any part thereof, within eight days after the same shall have been demanded from the owner or occupier aforesaid by the said Commissioner or other Officer appointed by the Commissioner to collect the amount of the said assessment, it shall be lawful for the said Commissioner, or other Officer as aforesaid, to levy the same by distress and sale of the goods and chattels to whomsoever belonging found in or upon the lands so assessed or the dwelling-house thereon,

thereon, and in case the amount of the said assessment or any part thereof, shall be paid by any tenant or occupier, or the same is levied by seizure and sale of his goods and chattels, such tenant or occupier may deduct the amount of the payment or levy from the following payments of his rent to his landlord.

IV. The Government of Bengal may at its discretion exempt any building from assessment.

V. No assessment made under the authority of this Act shall be impeached or affected by reason of any mistake in the name of any person liable to assessment or of anything chargeable with assessment, provided the directions of this Act be in substance and effect complied with, and no proceedings or other matter or thing had or done under this Act shall be quashed or set aside for want of form or error of procedure in any Court of Justice, but only on the merits.

VI. For the purposes of this Act the following shall be the boundaries of the Towns of Akyab and Kyouk Phyoo, viz. :

The boundaries of Akyab.—To the North the Charoogya Creek. To the West the said Creek and a Road running West and South until it joins the Bund called Morton's Bund, which leads down to the Sea-shore. To the South the Sea. To the East the Akyab River and Harbour.

The boundaries of Kyouk Phyoo.—To the North the Sea. To the East Oon Khyoung or Salt Golah Creek. To the West the Cantonments. To the South Kulabadong Lands, Kangyeendun Village, and Nga Tsoung's Grant.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first Meeting of the Legislative Council of India, after the 13th day of April next.

FRED. JAS. HALLIDAY,  
*Secy. to the Govt. of India.*



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## DRAFT ACT

*For the abolition of the Poll Tax, and for levying  
a tax on lands covered by dwelling-houses in  
Akyab and Kyauk Phyoo in Arracan.*

*Read in Council for the first time on the 13th of  
February, 1852.*

*Ordered to be re-considered after the 13th day  
of April next.*

Cons.

No.

FORT WILLIAM,

H O M E D E P A R T M E N T,

LEGISLATIVE,

T H E 20TH FEBRUARY, 1852.

The following Extract from the Proceedings of the Governor General of India in Council, in the Legislative Branch of the Home Department, under date the 20th February 1852, is published for general information :

Read a second time the Draft of a proposed Act, dated the 28th November 1851, and published in the *Calcutta Gazette* of the 3rd December 1851, to amend the mode of procedure in the Courts of the Sudder Ameens and Moonsiffs.

*Resolution.*—The Governor General in Council resolves, that the following amended Draft on the subject be published for general information :

Act No. — of 1852.

*An Act to amend the mode of procedure in the Courts of the Sudder Ameens and Moonsiffs in the Bengal Presidency.*

Whereas it is desirable that the mode of procedure in original suits in the Courts of the Sudder Ameens and Moonsiffs should be assimilated to the mode of procedure in such suits in the Courts of the Judges and Principal Sudder Ameens, It is hereby enacted as follows:

I. Sections XIX., XXI., XXII., XXIV., XXVII., XXIX., XXXV., XXXVII., and Clauses 1, 2, 3 and 5 of Section XXV., and Section LXXIII., so far as it extends Clauses 1, 2, 3 and 5 of Section XXV. and Section XXXV. to Sudder Ameens, of Regulation XXIII. of 1814, and Clause 5, Section V., Clause 3, Section XV., of Regulation V. of 1831, and so much of Clause 3, Section VIII. of the said Regulation V. of 1831, as relates to the Clauses and Sections of Regulation XXIII. of 1814, hereinbefore mentioned, and Section VI. of the said Regulation V. of 1831, except in so far as it rescinds Sections LVII., LVIII., and LIX., of Regulation XXIII. of 1814, all of the Bengal Code, are hereby repealed.

II. All

**II.** All laws and rules now in force relating to the mode of procedure in the trial and decision of original Civil Suits in the Courts of the Judges and Principal Sudder Ameens, shall also apply to and regulate the mode of procedure in the trial and decision of original Civil Suits in the Courts of the Sudder Ameens and Moonsiffs.

**III.** Sections XIII. and XXI. of Regulation III. of 1793, Sections VII. and XI., Regulation VII. of 1795, Sections XVII. and XIX., Regulation II. of 1803, Sections VIII. and IX. of Regulation VII. of 1832 of the Bengal Code, as extended by Act XXI. of 1850 shall be applicable to suits and cases in the Courts of the Moonsiffs. Clause 2, Section IV., Regulation XXVI. of 1814 of the said Code, relating to reviews of judgment shall also be applicable to the Courts of Sudder Ameens and Moonsiffs. Provided always that if a Sudder Ameen or Moonsiff shall be of opinion that a review of his judgment ought to be granted, he shall report the case to the Judge, who is hereby authorized to permit such review under the same rules as are prescribed by the existing Regulations with respect to similar applications to the Court of Sudder Dewanny Adawlut.

**IV.** Every Sudder Ameen and Moonsiff shall have power and authority to try suits in which any Vakeel or Officer of his Court is a party, anything in Section VIII., Act VI. of 1843, and in Clause 2, Section XV., Regulation V. of 1831 to the contrary notwithstanding; and suits under Clause 1, Section XXX., Regulation II. of 1819 of the Bengal Code, may be referred to them by the Zillah Judge for trial and decision under the restrictions as to local jurisdiction and value of property mentioned in Clauses 1, 2 and 3, Section V., and Clause 2, Section XV., Regulation V. of 1831.

**V.** Nothing in this Act contained shall be construed so as to repeal or otherwise affect the rules regarding the dispensing with the use of stamp paper on certain documents in the Courts of the Moonsiffs contained in Clause 2, Section IX., Regulation V. of 1831, or the rules for procuring the attendance of witnesses in the Courts of the Moonsiffs contained in Section II., Act XVII. of 1845.

**VI.** Applicants for execution of decrees may file with their petitions an authenticated copy of the decree of which execution is sought to be taken out, and in such case it shall not be necessary to compare the petition with the decree contained in the original record of the suit, anything in Clause 7, Section XV. Regulation XXVI. of 1814 to the contrary notwithstanding.

**VII.** Original suits referred to a Sudder Ameen under Clause 2, Section XV., Regulation V. of 1831, shall be tried and determined in conformity with the Provisions of Regulation XXIII.  
of

of 1814, and of this Act, any thing in Clause 3, Section XV., Regulation V. of 1831, to the contrary notwithstanding.

VIII. Nothing in this Act contained shall be construed to affect the mode of procedure in any case pending in the Courts of the Sudder Ameens and Moonsiffs at the time of the passing of this Act, but the mode of procedure in all such cases shall be governed by the law in force previous to the passing of this Act.

Ordered, that the Draft now read be re-considered at the first Meeting of the Legislative Council of India, after the 20th day of April 1852.

FRED. JAS. HALLIDAY,

*Secy. to the Govt. of India.*

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## DRAFT ACT

*To amend the mode of procedure in the Courts of the Sudder Amesans and Moonsiffs in the Bengal Presidency.*

*Read in Council for the second time on the 20th day of February 1852.*

*Ordered to be re-considered after the 20th day of April next.*

*Cons.*

*No.*

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 20TH FEBRUARY, 1852.

The following Draft of a proposed Act was read in Council for the first time, on the 20th February 1852.

ACT NO. — OF 1852.

*An Act for the Registration of Assurances in the Territories under the Government of the East India Company.*

Whereas the laws now in force in the Territories under the Government of the East India Company, relating to the Registration of Assurances, require amendment, It is hereby enacted as follows:

I. Regulations XXXVI. of 1793, XXVIII. of 1795, XVII. of 1803, Section XVII. Regulation VIII. of 1805, so far as it relates to Regulation XVII. of 1803, Section XXXII., Regulation XII. of 1805 and Regulations XX. of 1812 and IV. of 1824 of the Bengal Code; Regulations XVII. of 1802 and XI. of 1831 of the Madras Code, and Regulation IX. of 1827 of the Bombay Code; and Acts XXX. of 1838, I. of 1843, XIX. of 1843, IV. of 1845 and XVIII. of 1847 are hereby repealed with respect to each of the Presidencies aforesaid from and after the commencement of Registration under this Act in such Presidencies respectively, but not so as to revive any other Regulation or Act thereby repealed.

II. One public office shall be established in each of the Towns of Calcutta, Madras, Bombay, Agra and Singapore, for the purposes of this Act, to be called "The Chief Register Office"; and one public office shall be established in each of the Districts to be formed and assigned as hereinafter mentioned, for the purposes of this Act, to be called "The District Register Office."

III. The Government of each Presidency or Proper buildings place within the said Territories to be provided by shall provide and appoint, from Government time to time, proper buildings for such offices, in convenient places in such Towns and Districts.

IV. It shall be lawful for the Government of each Presidency or place, from time to time, to appoint for the said Chief Register Office, a Registrar, to be called the Chief Registrar, and an Assistant to such Chief Registrar, to be called "The Assistant Registrar," and it shall also be lawful for the said Government respectively, from time to time, to appoint, for each of the said District Offices, a Registrar, to be called "The District Registrar."

V. It

**V.** It shall be lawful for each of the said Chief Registrars and District Registrars to appoint for their respective offices such Clerks and subordinate Officers as may be allowed by the Government of each Presidency or place, and may be necessary for the execution of the duties to be performed in such offices, and at pleasure to remove them or any of them.

**VI.** Every Chief Registrar to be appointed as aforesaid shall be a Barrister at Law, or an Advocate of the Court of Sessions in Scotland, or a Solicitor of one of Her Majesty's Courts in India, or shall have acted as an Assistant or District Registrar for a period of seven years at least.

**VII.** In case of the illness, death, or temporary absence of a District Registrar, or during any temporary vacancy in the Office of such District Registrar, it shall be lawful for the Civil Judge of the said District to appoint such person as he shall think fit to act as District Registrar during such illness, absence, or temporary vacancy as aforesaid.

**VIII.** Every Chief Registrar, Assistant Registrar and District Registrar, and such of the Clerks and subordinate Officers, to be appointed as aforesaid as the Government of each Presidency or place shall see fit, shall give Security for the due performance of the duties of his or their respective Office or Offices, in such manner and to such amount as the said Governments shall respectively deem fit.

**IX.** Each of the said Registrars and District Registrars shall have and keep a Seal, and such Seal shall be supplied to each of the said Offices by the Government of the Presidency or place in which such Offices are respectively situate, and judicial notice shall be taken in all Courts of the impressions thereof, without any evidence of such Seal having been impressed, or any other evidence in relation thereto.

**X.** After the first appointment of the Chief Registrars aforesaid, the Chief Registrar of each Presidency or place in the said Territories shall, with all convenient speed, (with the consent of the Government thereof) divide such Presidency or place into Districts for the purposes of this Act, and the said Districts shall be of such extent as may, in his opinion, be convenient for facilitating searches in the separate Registers and Indexes to be kept as hereinafter mentioned for such Districts respectively.

**XI.** The Chief Registrar of each Presidency or place shall, at the expense of the Government of such Presidency or place, provide the Chief Register Office and each District Register Office therein with proper books for the Registers, Indexes and Receipts hereinafter mentioned.

**XII.** It shall be lawful for the Chief Registrar of each Presidency or place, with the consent of the Government thereof, by notice published in the Government Gazette, to appoint a time not earlier than three calendar months from the time of the publication of such notice, when

when Registration under this Act shall commence ; and the time so appointed shall be the time of the commencement of Registration under this Act.

**XIII. All Assurances executed after the commencement of Registration**

Assurances affecting lands to be registered in "the Register of Title Deeds relating to Lands" of the District where lands are situate.

or, where there are duplicate original documents, of one of the duplicate original documents, in the Register Office of the District in which such lands are situate, and by the entry or entries hereinafter required being made in the proper Index or Indexes to be kept under this Act in such Office, and the several documents to be deposited in such Office shall, from time to time, be made up into books or parcels, and numbered and arranged, with references to the said Indexes, in such manner as the Chief Registrar of each Presidency or place may direct, and the said books or parcels shall be called "The Register of Title Deeds relating to Lands."

**XIV. After the commencement of Registration**

Leases for seven years and less to be registered in "the Register of Leases" of the District in which lands are situate.

from any time not exceeding twelve calendar months from the date of such lease or agreement, in which a Rent shall be reserved or agreed to be reserved, or any Assurance, by which any such lease or agreement shall be assigned or otherwise affected, may be registered under this Act by the deposit of the original document, or when there are duplicate original documents, in the Register Office of the District in which such lands are situate, and by the entry or entries hereinafter required being made in the proper Index or Indexes to be kept under this Act in such Offices, and the several documents to be deposited in such Office under this Section shall, from time to time, be made up in parcels or books and numbered and arranged, with references to the said Indexes, in such manner as the Chief Registrar of each Presidency or place may direct, and the said books or parcels shall be called "The Register of Leases."

**XV. All Assurances executed after the commencement of Registration**

Assurances affecting money or moveable property to be registered in "the General Register" of the District in which Assurance is made.

there are duplicate original documents, of one of the duplicate original documents in the Register Office of the District in which such Assurance is made, and by the entry or entries hereinafter required being made in the proper Index or Indexes to be kept under this Act in such Office ; and the several documents to be deposited in such Office shall, from time to time, be made up into books or parcels, and numbered and arranged, with references to the said

said Indexes, in such manner as the Chief Registrar of such Presidency or place may direct, and the said books or parcels shall be called "The General Register." Any such Assurance may also be registered in manner aforesaid in the Register Office of any other District where any other Assurance affecting the same money or moveable property is registered.

**XVI.** All Assurances executed after the commencement of Registration  
When Assurances affect both lands and money. under this Act, by which any lands in the said Territories and also money or moveable property may be affected at Law or in Equity, shall be registered as hereinbefore mentioned in "the Register of Title Deeds relating to Lands," unless such lands are so affected by way of lease or agreement for lease only, in which case such Assurances shall be registered as hereinbefore mentioned in "the General Register," and all such Assurances registered in "the General Register of Title Deeds relating to Lands" shall be indexed as hereinafter provided by Section L. of this Act.

**XVII.** Every Assurance registered as herein-mentioned shall be marked by Assurances to be marked by Registrar with date of deposit. the District Registrar of the Office in which the same is registered, with the day and time of the day when the same was deposited as aforesaid.

**XVIII.** Where there are duplicate original Assurances and one duplicate thereof is duly stamped, the other duplicate shall be exempted from stamp duty if registered under this Act; but the Registrar, before he registers any un-stamped Assurance, shall satisfy himself that the duplicate thereof is duly stamped, and all memorials and copies to be registered pursuant to this Act, and all copies and extracts of or from any of the documents to be deposited in the Register Office, and all extracts from any of the Indexes to be kept at the Register Office, and all certificates of the result of searches in the said Indexes, and all requisitions for such copies, extracts and searches respectively, shall be exempt from stamp duty.

**XIX.** Every person who deposits an Assurance for Registration as aforesaid shall be entitled to receive from the Registrar of the Office in which the same is deposited, a receipt acknowledging such deposit and the day and time of the day when it was made, the date of the Assurance, the names of the parties thereto, and the entries in the proper Index or Indexes in which the same has been indexed. The Government of each Presidency or place shall furnish each District Registrar therein with receipt books for this purpose, and the receipts therein shall be according to the forms in Schedule A. to this Act annexed, or to the like effect, as the case may be, and every such receipt and the counterfoil thereof shall be numbered in order from the beginning to the end of the book, each receipt and the counterfoil thereof bearing the same number, and the Registrar shall sign both the receipt and the counterfoil thereof, and shall cut off and deliver to the depositor the counterfoil receipt on the right hand of the said receipt book, retaining the other receipt in the book for reference in the Office.

**XX.** All

**XX. All Assurances executed after the commencement of Registration under this Act, and mentioned and described in Sections XIII. and XIV. shall be registered in the Register of Title Deeds relating to Lands, "or in the Register of Leases," as the case may be, of the District in which the lands are situate, and in the Registers of no other Districts, and every Assurance not affecting lands but only money or moveable property shall be registered in "the General Register" of the District in which such Assurance is made, and also, if the parties think fit, in "the General Register" of any other District where any other Assurance affecting the same money or moveable property is registered.**

**XXI. Every decree or order of any Court**

Decrees affecting lands may be registered. lands in the said Territories is created, declared, transferred, or otherwise affected, and also every decree or order of any Court, made after such commencement, by which any suit, decree, or order as aforesaid is varied or reversed, shall for the purposes of this Act be considered an Assurance affecting such lands, and may be registered as aforesaid in "the Register of Title Deeds relating to Lands" or in "the Register of Leases," as the case may be, of the District in which such lands are situate, and in every such case the document to be deposited shall be a memorial of the decree or order, which memorial shall express the date of the decree or order, and the title of the cause wherein the same purports to be made, and shall also set forth the decree, or order, or so much thereof as relates to the estate or interest created, declared, transferred, or affected by the decree or order to be registered, or by the decree or order which is varied or reversed by the decree or order to be registered (as the case may be), and every such memorial as aforesaid shall, previously to the same being deposited in the Register Office, be examined with the decree or order by the Registrar or by some Clerk authorized to give out an office copy of such decree or order, and shall be certified by the signature of such Registrar or Clerk, and every such Registrar or Clerk is hereby required to examine any such memorial and to certify the same by his signature, at the request of any person upon being paid the sum of one rupee and eight annas.

**XXII. Every decree or order of any Court; made**

Decrees affecting moveable property after the commencement of Registration under this Act, whereby any may be registered. right or interest in money or moveable property only is created, declared, transferred, or otherwise affected, and also every decree or order of any Court, made after such commencement, by which any such decree or order as aforesaid is varied or reversed, shall, for the purposes of this Act, be considered an Assurance, and may be registered as aforesaid in "the General Register" of the District in which such Court is situate, and, if the party registering such decree shall think fit, in "the General Register" of any other District where any other Assurance affecting the same money or moveable property is registered, and in every such case the document deposited shall be a memorial of the decree or order, which shall be in such form, and shall contain the same particulars as are required by the last Section with respect to memorials of decrees affecting lands,

lands, and every such memorial as aforesaid shall be examined by such persons, and in such manner, and upon payment of such charge, as is provided by the last Section.

**XXIII.** Any person claiming any interest under any equitable mortgage by deposit of affecting any lands in the said deeds may be registered. Territories, made by deposit of Title Deeds, after the commencement of Registration under this Act, may register in the Register Office of the District in which such lands are situate, a memorandum containing a description of the lands and the names of persons by and with whom respectively the Title Deeds are deposited, and expressing the principal sum of money secured by such equitable mortgage, or, in case the total amount of the principal money secured or to be ultimately recoverable upon such equitable mortgage be limited not to exceed a given sum, the total amount of such money, or, in case the money secured by such equitable mortgage be without any limit, that the money secured by such equitable mortgage is unlimited, and, in every such case, the memorandum to be so registered shall, for the purposes of this Act, be considered an Assurance affecting such lands, and shall be registered in "the Register of Title Deeds relating to Lands."

**XXIV.** Where by reason of the non-payment of purchase-money a vendor has, Lien by reason of non-payment of purchase-money may be registered by depositing a memorandum. after the commencement of Registration under this Act, acquired a lien for such purchase-money on any lands in the said Territories, any person claiming an interest in such lien may register a memorandum containing such particulars of the conveyance by the vendor as are sufficient to identify the same, and also containing a description of the lands, and expressing the amount of the money for which a lien is claimed, and in every such case the memorandum to be so registered shall, for the purposes of this Act, be considered an Assurance affecting such lands, and shall be registered in "the Register of Title Deeds relating to Lands" of the District in which such lands are situate.

**XXV.** In the several cases provided for by the four immediately preceding Sections, the Assurance to be registered shall, for the purposes of this Act, be considered to have been made by the person whose right, &c., in the lands, &c., shall be bound by the decree, &c. The Assurance to be considered to have been made by the person whose right or interest in the lands or property shall be bound or affected by the decree or order, the equitable mortgage, or the lien (as the case may be) and subject to the Regulations to be made under this Act, the same entry or entries shall be made on registering such Assurances as would have been required if the lands or property affected by the decree or order, the equitable mortgage, or the lien (as the case may be) had been so affected by the grant, conveyance, or assignment of such person.

**XXVI.** Any Will by which lands in the said Territories may be affected at Registration of Wills. Law or in Equity, where the testator dies after the commencement of Registration under this Act, may be registered by the deposit of the original Will, or (where there are duplicate original Wills) of one of the duplicate original Wills in the Register Office of the District in which such lands are situate, and any Will by which only money or moveable

moveable property is affected, where the testator dies as aforesaid, may be registered by the deposit of the original Will, or (where there are duplicate original Wills) of one of the duplicate original Wills, in the Register Office of the District in which the testator died; or if any such Will as aforesaid be proved, or Letters of Administration with such Will annexed be granted in any Court in the said Territories having jurisdiction for the Probate of Wills, and such Will be deposited in such Court, the same may be registered under this Act by the deposit in the proper Register Office as aforesaid of a memorial of such Will, mentioning the name of the testator with his addition (if any) as set forth in the Will, and the Court in which, and the time when, such Will was proved or such Letters of Administration granted, or by the deposit in such Office of an office or authenticated copy of the Will duly certified by the Registrar or other Chief Officer of the Court in which such Will was proved or Letters of Administration granted; or if such Will be proved, or Letters of Administration with such Will annexed be granted in any Court having jurisdiction for the Probate of Wills in the United Kingdom, or elsewhere out of the said Territories, such Will may be registered under this Act by the deposit in the proper Register Office as aforesaid of a copy of the same; and the copy to be so deposited shall, where there is any Officer authorized to give out an office or authenticated copy from the office or place of deposit of such Will, be an office or authenticated copy duly certified by such Officer, and all such Wills or Memorials by which lands in the said Territories are affected at Law or in Equity shall be considered as Assurances affecting such lands within the meaning of this Act, and may be registered as hereinbefore mentioned in "the Register of Title Deeds relating to Lands" and all such Wills or Memorials by which only money or moveable property is affected at Law or in Equity, shall also be deemed Assurances, and shall be registered in "the General Register."

**XXVII.** Where any person, having power to affect by Will lands money, or moveable property in the said Territories, dies after the commencement of Registration under this Act, intestate, Letters of Administration or Certificates granted under Act XX. of 1841, in respect of the estate and effects of such person, may be registered under this Act by the deposit in the Register Office of an office extract of such Letters or Certificates, and any person who claims as heir, representative, or otherwise any estate, property, or interest in such lands, money, or moveable property which might have been defeated or affected by the Will of any person dying after the commencement of Registration under this Act, and believes such person to have died intestate, or intestate as to such lands, money, or moveable property, may make and register an Affidavit, hereinafter referred to as an Affidavit of intestacy, stating that the deponent claims such estate or interest, and stating the time of the death of such deceased person, and that the deponent believes that such deceased person died without a Will, or without any Will other than any Will in such affidavit mentioned; and all such Letters of Administration, Certificates, Extracts, and Affidavits relating to or in any way affecting any lands shall be deemed Assurances within the meaning of this Act, and shall be deposited and registered as hereinbefore

Letters of Administration or Affidavit of Intestacy may be registered.

hereinbefore directed in "the Register of Title Deeds relating to Lands" of the District in which such lands are situate, and all such Letters of Administration, Certificates, Extracts and Affidavits, relating to or affecting only money or moveable property, shall also be deemed Assurances within the meaning of this Act, and shall be registered as hereinbefore directed in "the General Register" of the District where such deceased person as aforesaid died.

**XXVIII.** Every written authority given by Authority to any husband to a wife to adopt adopt a son may after his decease any son, such be registered. authority being so given after the commencement of Registration under this Act, may be registered by the deposit of the original authority, or (where there are duplicate original authorities) of one of the duplicate original authorities, and every such written authority shall be deemed an Assurance. Where any estate or interest in land may be affected by virtue of such adoption, the written authority shall be registered as hereinbefore mentioned in "the Register of Title Deeds relating to Lands" of the District in which the lands are situate, and where only interests in money or moveable property may be affected by such adoption, such written authority shall be registered as hereinbefore mentioned in "the General Register" of the District in which such husband died.

**XXIX.** Where the original document or (if there be duplicates) the several original documents is or are destroyed or lost, a copy of or (in cases where no copy is known to deposited. exist) an extract from the original document, or of or from any one of the duplicate original documents, may, on registering the Assurance, be deposited in the Register Office in lieu of an original document, and thereupon the Registration of the Assurance shall (so far as respects depositing a document) be as valid and effectual as if an original document had been deposited in the Register Office; provided always, that in every such case an Affidavit of the destruction or loss of the original document, or (if there have been duplicate originals) of the destruction or loss of the several original documents, and (where an extract only is deposited) of the non-existence, to the best of the deponent's belief, of any copy of the original document or of any one of the original documents (as the case may be) shall be brought to the Register Office with the said copy or extract to be deposited as aforesaid, and shall be deposited together with the same in the Register Office. Provided always, that in the case of a copy or extract, the Registration of an Assurance shall be effectual only so far as such copy or extract extends, and so far as the same substantially and in material respects agrees with the original document.

**XXX.** Where any order or rule is made by any Judge or Court as herein-after mentioned respecting the delivery or sending of any document, or copy, or extract, at or to a Register Office for the purpose of being registered, and the same is not delivered or sent within such time as by such order or rule may be limited in that behalf, such order or rule may be registered in the Register Office, and the registration thereof

thereof shall be of the like force and effect as the registration of such document, copy, or extract.

**XXXI.** Every petition for adjudication of Insolvency in the said Territories filed of record after the commencement of Registration under this Act, may be registered under this Act by the deposit in the Register Office of a memorandum, mentioning the Court in which, and the time when, such petition was filed, and the name and place of residence or business of the person against whom such petition is presented, as the same are set forth in the petition, and by the entry hereinafter required being made in the proper Index to be kept in the Register Office; and every appointment or choice of Assignees of any Insolvent in the said Territories made after such commencement, may be registered under this Act by the deposit in the Register Office of the District in which such Assignees are appointed of an office copy of the Certificate of such appointment or choice, and by the entry herein-after required being made in the said Index; and all such memoranda and copies as aforesaid shall be deemed Assurances within the meaning of this Act. Where any lands may be affected at Law or in Equity by such adjudication or appointment as aforesaid, the same shall be registered as hereinbefore mentioned in "the Register of Title Deeds relating to Lands" of the District in which such lands are situate; and where only money or moveable property may be affected at Law or in Equity by such adjudication or appointment, the same shall be registered in "the General Register" of the District in which such petition is to be adjudicated.

**XXXII.** Where by virtue of any vesting or

Any order or appointment, &c., of Assignees in Insolvency may be registered by deposit of a copy or certificate, and making the proper entry.

Any Official or other Assignee made after such commencement by such Court, Commissioner, or Judge, or by the Creditors of any Insolvent Debtor,—the Estate and Effects of any Insolvent Debtor become vested in any such Assignee, every such order, nomination, appointment, or choice, may be registered under this Act by the deposit in the Register Office of an office or authenticated copy or certificate of such order, nomination, appointment, or choice, and by the entry hereinafter required being made in the proper Index in the Register Office; and all such copies and certificates shall be deemed Assurances within the meaning of this Act; and where any lands may be affected at Law or in Equity by such order, nomination, appointment, or choice, the same shall be registered in "the Register of Title Deeds relating to Lands" of the District where such lands are situate; and where only money or moveable property may be affected at Law or in Equity by such order, nomination, appointment, or choice, the same shall be registered in "the General Register" of the District in which such order, nomination, appointment, or choice is made.

**XXXIII.** All requisitions for Inhibitions against alienation hereinafter mentioned, and the respective Registered Affidavits delivered therewith, and all Caveats hereinafter mentioned, affecting any

Any lands at Law or in Equity, shall be considered Assurances within the meaning of this Act, and may be registered by the deposit thereof in "the Register of Title Deeds relating to Lands" of the District in which such lands are situate; and all requisitions for Inhibitions against alienation and the respective Affidavits delivered therewith, and all Caveats, affecting only money or moveable property, shall also be deemed Assurances, and may be registered by the deposit thereof in "the General Register" of the district in which the Assurance sought to be affected by any use, trust, or confidence mentioned in such requisition, or by any such Caveat, is or is about to be registered; and all such Affidavits delivered with such requisitions for Inhibitions shall be numbered in the respective Registers with the same number as the requisitions.

**XXXIV.** None of the provisions of this Act shall extend to such Assurances relating to shares in any public or private works or undertaking of any Corporation, Company, or Society, as by virtue of any local or other Act, are required to be registered, or otherwise entered or minuted in the books of the Corporation, Company, or Society.

**Bills of exchange and promissory notes not to be affected by this Act.** None of the provisions of this Act shall be construed to extend to bills of Exchange or Promissory Notes.

**XXXVI.** There shall be provided and kept in each District Register Office in the said Territories, four Indexes of "the Register of Title Deeds relating to Lands," to be respectively intituled, the Index of Titles, the Index of the Names of Grantors, the Index of Testators and Intestates, and the Index to Insolvents; and the said four Indexes shall respectively be made and kept as next hereinafter mentioned.

**XXXVII.** All Assurances to be registered under this Act, by which any lands of "the Register of title deeds relating to lands." may be affected as aforesaid, shall be indexed in "the Index of Titles" to the "Register of Title Deeds relating to lands," under heads to be respectively designated by numbers or names of Villages or Mehals or otherwise, as the Registrar may think fit; and every entry in the said Index shall express the year and the day of the month when the same is made, and the book or parcel in which the document deposited in the Register Office is made up, and the number of such document in such book or parcel, and such other particulars as under any Regulations to be made as hereinafter mentioned may be directed.

**XXXVIII.** "The Index of the names of Grantors" to "the Register of Title Deeds relating to lands" shall be an alphabetical index of the names of such Grantors, and, save where otherwise provided by the regulations to be made under this Act, the name of the Grantor in the Assurance, with his addition (if any) as set forth therein, shall be entered in the Index of the names of Grantors for the district, and an entry shall be made opposite to the name so entered, which entry shall contain a reference to the head under which such Assurance is indexed in the Index of Titles, and where the lands affected by the Assurance are situate in more than one district, like entries shall be made in the Index of the names of Grantors for each such district.

**XXXIX.** "The

**XXXIX. "The Index of Testators and Intestates"** to "the Register of Title Deeds relating to lands" shall be

The "index of testators and intestates" to "the register of title deeds relating to lands."

of intestacy is or are registered under this Act, an entry of the name of the testator or intestate, with his addition, if any, as set forth in the will, letters of administration, certificate or affidavit, shall be made in such index, and opposite to the name of every testator or intestate, whose name is so entered, an entry shall be made, expressing the year and day of the month when such entry is made, and the nature of the document deposited, and the book or parcel in which the will, memorial, copy, office extract of letters of administration, or certificate, or affidavit, is made up, and the number thereof in such book or parcel, and such other particulars as under any Regulations to be made as hereinafter mentioned may be directed.

**XL. "The Index to Insolvents"** to "the Register of Title Deeds relating to lands" shall be an alphabetical index of such Insolvents, and

"The index of insolvents" to "the register of title deeds relating to lands."

to any petition for adjudication of Insolvency, appointment, or choice of Assignees, or any vesting or other order or nomination in any Insolvency, is registered under this Act, an entry of the name of the person against whom the petition is presented, or of the Insolvent, with the addition (if any) of such person or insolvent as set forth in the memorandum, copy, or certificate deposited as aforesaid, shall be made in the said Index to Insolvents; and opposite to the name of every Insolvent whose name is so entered an entry shall be made, expressing the year and day of the month when the same entry is made, and the book or parcel in which the said memorandum, copy, or certificate has been made up, and the number of the same in such book or parcel, and such other particulars as under any regulation to be made as hereinafter mentioned may be directed.

**XLI. The Government of each Presidency or**

Maps may be made or adopted by Government &c., "land index" formed with reference to such maps.

place may cause to be provided for the several districts therein, such Maps as they may approve and deem sufficient for the purposes of registration under this Act, and for providing such Maps may cause to be made or adopted copies, with such additions, omissions, or variations, as they may think fit, of such of the Maps made for the Revenue Survey, or by the Trigonometrical Survey, or of such other existing Maps as they may think sufficient, or may cause, in any case, new Maps to be made for the whole or part of any district; and the Maps to be provided or adopted as aforesaid shall be deposited and kept in the respective District Register Offices, and shall be used for the purposes of this Act; and the Chief Registrar of each Presidency or place respectively, with the consent of the Government thereof, shall cause to be made for each district an Index or Indexes, in such form as he may approve, of the several lands in the district, having reference to the Map or Maps thereof to be used for the purposes of this Act, and shall make provisions and Regulations for insertion from time to time, in the Indexes for the several districts, of the names or short descriptions of the Villages or

or other estates of whatever tenure therein respectively as cannot be conveniently indicated by reference to such Maps ; and the Index or Indexes so to be made for each district shall be deposited and kept in the district Register Office, and shall be " the Land Index" of such District for the purposes of this Act ; and from and after the period when such Maps are provided, and such Index or Indexes having references thereto are made as aforesaid in any district, it shall and may be lawful for the Chief Registrar of each Presidency or Place (with the consent of the Government thereof), in his discretion, to make regulations for the discontinuance in such district of " the Index of Titles" to " the Register of Title Deeds relating to lands."

**XLII.** In districts where a Land Index is made and an Index of Titles is also continued, if an entry of an Assurance is made in the Index of Titles, an entry shall be made in " the Land Index" for the same district, opposite to the name or number of such land, which entry in the Land Index shall contain a reference to the entry in the Index of Titles, and the said Land Index shall contain such other particulars as under any Regulations to be made as hereinafter mentioned may be directed.

**XLIII.** There shall be provided and kept in each District Register Office in the said Territories, two Indexes of " the Register of Leases," to be respectively intituled " the Index of Titles" and " the Index of Lessors," and the said two Indexes shall respectively be made and kept as next hereinafter mentioned.

**XLIV.** All Leases or agreements for Leases, " Index of Titles" or other Assurances by which to " the Register of such Leases or Agreements shall "Leases." be assigned or affected, shall be Indexed in " the Index of Titles" to " the Register of Leases," under heads, to be respectively designated by numbers, or names of Villages, or Estates, or otherwise as the District Registrar may think fit, or as may be directed by the Regulations hereinafter mentioned ; and every entry in such Index shall express the year and day of the month when the same is made, and the book or parcel in which the document deposited in the Register Office is made up, and the number of such document in such book or parcel, and such other particulars as under any Regulations to be made as hereinafter mentioned may be directed.

**XLV.** " The Index of the names of Lessors" " Index of the to " the Register of Leases" " names of Lessors" to " the Register of the names of such Lessors, and " gister of Leases." the name of the Lessor in the Lease or assignment, with his addition, if any, as set forth therein, shall be entered in such Index, and an entry shall be made, opposite to the name to be so entered, which entry shall contain a reference to the head under which such Lease is indexed in the Index of Titles, and such other particulars as under any Regulation to be made as hereinafter mentioned may be directed ; and when the lands affected by such Lease are situate in more than one district, like entries shall be made in the Index of each such district.

**XLVI.** There shall be provided and kept in each District Register Office in the said Territories, three Indexes of " the General Register," to be

be respectively intituled, the Index of the names of Grantors, the Index to Testators and Intestates, and the Index to Insolvents, and the said three Indexes shall respectively be made and kept as next hereinafter mentioned.

**XLVII. The "Index of the names of Grantors"**

The "Index of the names of Grantors" to "the General Register," shall be an alphabetical Index of such Grantors to "the General Register," and, save where otherwise provided by the Regulations to be made under this Act, shall be made and kept in the manner and form hereinbefore provided for the making and keeping of the "Index of the names of Grantors," to "the Register of Title Deeds relating to lands" or as near thereto as circumstances will permit, and shall contain such other particulars as under any Regulation to be made as hereinafter mentioned shall be directed.

**XLVIII. "The Index of Testators and Intestates"**

The "Index of Testators and Intestates" to "the General Register" shall be an alphabetical Index of such Testators and Intestates, and, save where otherwise provided by the Regulations to be made under this Act, shall be made and kept in the manner and form hereinbefore provided for the making and keeping of "the Index of Testators and Intestates" to "the Register of Title Deeds relating to lands," or as near thereto as circumstances will admit, and shall contain such other particulars as under any Regulation to be made as hereinafter mentioned shall be directed.

**XLIX. "The Index of Insolvents" to "the General Register"**

The "Index of Insolvents" to "the General Register," shall be an alphabetical Index of such Insolvents, and, save where otherwise provided by the Regulations to be made under this Act, shall be made and kept in the manner and form hereinbefore provided for the making and keeping of "the Index of Insolvents" to "the Register of Title Deeds relating to lands," or as near thereto as circumstances will admit, and shall contain such other particulars as under any Regulation to be made as hereinafter mentioned shall be directed.

**L. All Assurances by which any lands and also money or moveable property are affected, and registered in**

Assurances affecting both lands and moveable property to be indexed in the proper Indexes of both Registers.

as in the proper Indexes of the "Register of Title Deeds relating to lands."

**LI. On the registration of any Assurance made by an heir at law or other person, by way of confirmation of a Will which has been registered under this Act, or of any appointment of new Trustees under any such Will, or of any release or assurance of any lands**

Appointments of new Trustees and other like Assurances may be indexed in the "Index of Testators and Intestates." or charges on lands comprised in or affected by any such will, which, in the opinion of the Registrar, may be conveniently indexed with reference to such Will, the Registrar may cause to be entered in "the Index to Testators and Intestates," opposite to or in connexion with the entry in relation to such Will, a reference to the head or entry under which such Assurance, appointment, or release is entered in the Index of Titles.

**LIII.** Each District Registrar shall cause the entries required to be made on registering or indexing any Assurance under this Act to be made immediately after the Assurance is received at the Register Office, and no Assurance shall be deemed registered under this Act unless and until all the entries required under this Act in respect of such Assurance have been duly made;

provided that when, upon the registration under this Act of an Assurance affecting lands, all the entries which would be required for such registration have been duly made Assurance duly entered as to part only of the lands to be deemed duly registered as to such part.

with respect to part only of the lands affected thereby, such Assurance shall, as to the lands with respect to which such entries have been so made, but not as to the residue of the lands affected by such Assurance, be deemed duly registered under this Act.

**LIII.** Any person having an interest in any lands, money, or moveable property in the said Territories, under any Assurance by this Act authorized to be registered, which has not been registered, may require any person in pos-

session of the original document, or, (where the original document or the several original documents is or are lost) a copy of, or (in cases where no copy is known to exist) an extract from the original document, or of or from any of the original documents, to deliver or send the same at or to the proper Register Office, for the purpose of its being registered; and in case the person in whose possession the same shall be refuse so to do, it shall be lawful for any Judge of any Court of Civil Judicature, upon a summary application, to make such order respecting the delivery or sending of such document, or copy, or extract as aforesaid at or to the proper Register Office for the purpose aforesaid as to such Judge, in the exercise of his discretion, shall, under the circumstances of the case, appear proper: and on non-compliance with any such order or rule the same may be registered as in Section XXX. hereinbefore mention. Provided always, that this enactment shall not authorize any person to require or enforce the registration of any Assurance, or copy, or extract of an Assurance, affecting lands at Law or in Equity, in case any Agreement or Provision has been made for the non-registration of such Assurance by him, or by any person from or through whom he derives an interest under such Assurance.

**LIV.** It shall be lawful for the Judge, to whom any such application is made, to make such order respecting the costs of such application, and the costs incidental thereto, and the costs of registration, as to such Judge shall seem proper; and it shall also be lawful for such Judge to order that an office copy of the original document, copy, or extract to be delivered or sent as aforesaid, shall be furnished to the party by whom the same shall be so delivered or sent, at the expense of the party by whom the application is made.

**LV.** Provided always, that where any Judge of Her Majesty's Courts or of the Courts of Sudder Adawlut makes or refuses to make any such order as aforesaid, application may be made to the Appeals from such orders.

the whole Court of which he is a Judge to rescind or vary such order, or to make such order as the case may require, and such Court shall hear and determine the matter of such application; and where any Judge of a Small Cause Court makes or refuses to make any such order, application may be made to Her Majesty's Court having jurisdiction in the Town where such Small Cause Court is situate; and where any other Judge makes or refuses to make any such order, application may be made to the Sudder Adawlut of the Presidency in which such Judge has jurisdiction, to rescind or vary such order, or to make such order as the case may require, and the said Courts of Her Majesty and Sudder Adawlut, as the case may be, shall respectively hear and determine the matter of such application.

**LVI. Every Assurance by this Act authorized to be registered, other than a Will, decree, or order, shall**

**Assurances affecting lands authorized to be registered to be void as against purchasers unless registered.**

**Assurance duly registered, unless the prior Assurance have been registered in the manner directed by this Act before the registration of the subsequent Assurance.**

**LVII. Where any equitable mortgage affecting lands in the said Territories is made by the deposit of Title Deeds after such commencement of Registration, and where, by reason of the non-payment of purchase-money, a vendor has,**

**Equitable mortgage by deposit of Deeds, and lien for purchase-money, to be void as against purchasers, unless Memorandum registered.**

**at any time after such commencement of Registration, acquired a lien for such purchase-money on any lands in the said Territories, such equitable mortgage and lien respectively shall be void as against any person claiming for valuable consideration under any subsequent Assurance duly registered, unless, in the respective case of such equitable mortgage and lien, such Memorandum, as is hereinbefore in such respective cases authorized to be registered, be registered in the manner required by this Act before the registration of the subsequent Assurance.**

**LVIII. Where any Will, Letters of Administration, Certificate, or Affidavit of Intestacy, authorized to be registered under this Act, has**

**Un-registered Will to be void against purchaser from persons entitled under a registered Will, or, in default of a Will, where Letters of Administration or Affidavit of Intestacy registered.**

**of Administration or Certificate were granted, or with respect to whose Intestacy or alleged Intestacy such Affidavit was made, shall, so far as regards any lands in the said Territories, be void as against any person claiming for valuable consideration under any Assurance duly registered under this Act, made after the death of the Testator by any person claiming immediately or derivatively under such first-mentioned Will, or such Letters of Administration or Certificate, or by any other person by whom such Assurance might have been made if such other Will as aforesaid had not been executed, unless such other Will be registered before the registration of such Assurance,**

rance, or such first mentioned Will, Letters of Ad-

ministration, Certificate or Affidavit. Provided always, that every Will registered within two years after the death of the testator, shall be as valid and effectual.

as if the same had been registered immediately after the death of the testator: Provided also, that if, by reason of the concealment, suppression, or contesting of any Will, or other inevitable difficulty, any person interested thereunder be disabled

If concealment of Will contested, party interested may register an affidavit as to Will. from registering the same within such two years, and such person, or any person on his behalf, within such last-mentioned period, make and register, in manner herein directed, an Affidavit, stating the name and addition of the testator, the date of his death, and the impediment to the registration of such Will which may be existing at the time of making such Affidavit, then and in such case the registration of such Will in manner directed by this Act, within six calendar months next after all impediments to the Registration thereof are removed, shall, unless before such registration the registration of such Affidavit be cancelled under the provision hereinafter contained, be as valid and effectual as if the same had been registered immediately after the death of the testator; and such Affidavit as aforesaid shall be deposited in the Register Office, and shall be made up and numbered in like manner as hereinbefore directed concerning registered Wills, and the like entries shall be made in relation to such Affidavit in the "Index to Testators and Intestates" as in the case of a registered Will, save that in describing the document deposited,

Court may order Registration of Affidavit of a Will to be cancelled. the same shall be called an Affidavit of a Will: Provided always, that where an Affidavit of

a Will is registered under the provision lastly hereinbefore contained, it shall be lawful for the Court of Civil Judicature of the district in the Register Office of which the same is registered, upon the application, by motion or petition in a summary way, without bill or plaint filed, of any person claiming as Heir, Executor, Administrator, Representative, or otherwise any estate or interest in lands, money, or moveable property in the said Territories which might have been defeated or affected by the Will of the person in respect of whose Will or alleged Will such affidavit is made, in case it appear to the said Court that such affidavit was made and registered without due cause, or that the cause for making and registering the same has ceased, or otherwise that the registration of such affidavit should be cancelled, to order such cancellation accordingly; and it shall be lawful for such Court on any such application to award such costs, and generally to make such order in relation to the premises, as to such Court may seem fit, and the Registrar shall, where such Court orders such registration to be cancelled, cancel the entries in the Index in relation to such affidavit.

LIX. Where the first vesting or other order,

Purchasers protected against Insolvency, unless the appointment of Assignees, &c., be registered. or nomination, appointment, or choice of any Assignees in any Insolvency, under which the estate and effects of the Insolvent becomes vested in any

Assignees or Trustee under the Insolvency, is made after the commencement of registration under this Act, such Insolvency, or any vesting or other order, nomination, appointment,

ment, or choice of Assignees thereunder, shall not, as against any person claiming for valuable consideration under any Assurance duly registered under this Act, made by the Insolvent or any other person by whom the same might have been made if such Insolvency had not happened, invalidate or affect such Assurance, so far as regards any lands in the said Territories, unless some such vesting or other order, or nomination, appointment, or choice of Assignees, as is authorized to be registered under this Act, be duly registered before the registration of such Assurance as aforesaid, or within one calendar month after the date of the order, nomination, appointment, or choice under which the estate and effects of the Insolvent have become vested in any Assignee or Trustee under the Insolvency.

**LX. No Assurance by an Insolvent affecting lands in the said Territories**

Protection of purchasers against subsequent adjudication in Insolvency where the petition is not registered.

as against any person claiming under such Assurance for valuable consideration and without fraud, be invalidated, so far as regards any lands in the said Territories, by reason of such adjudication, or of the Act of Insolvency on which such adjudication is founded, or of any other act of insolvency, unless the petition for adjudication have been filed of record or presented after the commencement of Registration under this Act, or have been duly registered under this Act before the registration of such Assurance.

**LXI. The priority given by the provisions hereinbefore contained to any person claiming for valuable consideration under a registered Assurance**

The priority given by the preceding clauses to be enforced in equity notwithstanding Notice.

Court in consequence of such person having been affected with notice; and where, under the provisions hereinbefore contained, priority is given to any person claiming for valuable consideration under a registered Assurance an equitable estate or interest, such priority shall, in favor of any person so claiming without fraud, be enforced in Equity, although the person so claiming under such registered Assurance has been affected with notice.

**LXII. Where any estate or interest in lands in the said Territories is vested in any person under any Assurance registered under this Act**

Purchaser for valuable consideration not to be affected by notice of uses or trusts not manifested by a registered Assurance, nor by uses or trusts declared by reference to an unregistered Assurance.

the commencement of Registration under this Act, and affecting such estate or interest, unless such use, trust or confidence be manifested or proved by such first-mentioned Assurance, or some other Assurance duly registered under this Act, before the registration of the Assurance under which such purchaser so claims; and where, in any Assurance registered under this Act, any use, trust, or confidence affecting any estate

or interest in lands in the said Territories vested in any person under any Assurance registered under this Act, is declared or created by reference to and depends for its validity or for the terms thereof upon some other Assurance executed after the commencement of Registration under this Act, no purchaser for valuable consideration, without fraud, claiming under any Assurance made by the person in whom such estate or interest is so vested, shall be affected by such use, trust, or confidence, unless the Assurance, by reference to which such use, trust, or confidence is so declared or created, be registered under this Act before the registration of the Assurance under which such purchaser so claims.

**LXIII.** Where any two or more Assurances

Assurances registered at the same time to have priority according to the order of time in which the same shall have been executed.

**LXIV.** Every person who shall claim without

The protection of the Act to extend to persons who claim under purchasers for value.

as the person who shall have so claimed for valuable consideration.

**LXV.** In any case in which priority or pro-

tection might but for this Act have been given or allowed in tacking not to be allowed. Equity to any estate or interest in lands, by reason or on the ground of such estate or interest being protected by or tacked to any legal or other estate or interest in such lands, no such priority or protection shall, after the commencement of Registration under this Act, be so given or allowed to any estate or interest in lands in the said Territories, except as against any estate or interest which shall have existed prior to such commencement; and full effect shall be given in every Court of Equity to this present provision, although the party claiming such priority or protection as aforesaid shall claim as a purchaser for valuable consideration and without notice.

**LXVI.** No Assurance affecting lands which

An Assurance which would have the effect of merging any interest not to have such effect as against a subsequent purchaser of such interest, unless an entry be made to lead such purchaser to the Assurance.

subsequent Assurance duly registered, whereby such term of years or other particular estate or such charge or interest is assigned or otherwise affected unless before the registration of such subsequent Assurance an entry of the Assurance which would have the effect of merging, releasing or extinguishing such term of years or other particular estate, or charge or interest or part respectively, be made in the Index of Titles in which an Assurance of such term of years or other particular estate, or charge or interest, if the same were subsisting, might, under the provisions of this Act, to be indexed or entered.

**LXVII.** Nothing

**LXVII.** Nothing in this Act contained shall be construed so as to render the registration of such leases or agreements for leases as in Section XIV. mentioned, or any Assurance by which any such lease or agreement shall be assigned or otherwise affected, compulsory or necessary; or to give any such leases, agreements, or assignments as aforesaid, when registered, any priority over other leases or Assurances.

**LXVIII.** All Assurances affecting only money or moveable property (except Wills, Decrees and Orders) shall be utterly void and of none effect unless registered within six months after the execution thereof by the party who conveys, assures, transfers, assigns or appoints thereby, or unless a caveat respecting such Assurance be registered within six months after such execution, and such caveat continue in force, or unless a caveat respecting such Assurance be registered as aforesaid, and after such caveat ceases to be in force, such Assurance be registered within six months after such execution, the time during which such caveat is registered and in force being deducted in the calculation of such six months. Provided always, that every such Assurance as aforesaid affecting money or moveable property registered within six months after the execution thereof as aforesaid, or registered after a caveat has been duly registered as aforesaid, and before such caveat ceases to be in force, or registered after such caveat ceases to be in force, but within six months after such execution as aforesaid (the time during which such caveat was registered and in force being deducted in the calculation of such six months,) shall be as valid and effectual as if the same had been registered immediately after such execution. All Wills, affecting only money or moveable property either at Law or in Equity, shall be wholly void and of none effect unless registered within two years after the death of the Testator, but if registered within that time, shall be as valid and effectual as if the same had been registered immediately after the death of the Testator, and if by reason of the concealment, suppression, or contesting of any Will, or other inevitable difficulty, any person interested thereunder be disabled from registering the same within such two years, then such Affidavit of a Will as hereinbefore in Section LVIII. mentioned, or to the like effect, so far as circumstances will admit shall be made and registered by such person, and the said Courts shall have the like power and authority to order the registration or cancellation of such Affidavits of Wills as are hereinbefore given and conferred by the said Section LVIII. with respect to the Affidavits of Wills affecting lands.

**LXIX.** Where any person is interested under any use, trust, or confidence, declared or created after the commencement of registration under this Act, and affecting any estate or interest in lands, money or moveable property in the said Territories, which is vested in any person under any Assurance registered under this Act, and such use, trust or confidence is not manifested or proved by any Assurance, registered under this Act, or is, in any Assurance registered under this Act, declared and created by reference to and depends for its validity or for the terms thereof upon some other Assurance not registered under

Persons interested under uses or trusts affecting estates or property vested under a registered Assurance may enter an inhibition against alienation.

der this Act, any person so interested as aforesaid may, by a requisition in writing under his hand, delivered at the Register Office in which such Assurance is registered as aforesaid, together with such Affidavit as herein-after mentioned, require an Inhibition in respect of any such lands, money, or moveable property, to be mentioned in such requisition, to be entered against any person mentioned in such requisition in whom such estate or interest is vested as aforesaid, inhibiting him from alienating, transferring, charging, or affecting such lands, money or moveable property by virtue of such estate or interest, without notice being first given by the Registrar to the person signing such requisition, or some person on his behalf, at some office or place mentioned in such requisition, and situate within ten miles of the Register Office, and such requisition shall specify the date of and parties to the Assurance under which such estate or interest is vested, and the entries with respect to the same in the Index or Indexes of the Register in which the same is registered, and the affidavit to be delivered with such requisition shall be made by the person signing such requisition, and such person shall therein swear that he believes that he is interested under such use, trust, or confidence as aforesaid.

**LXX.** Where an Inhibition is so required to be entered, an entry shall be made  
Inhibition to be entered in Index of Titles. in the Index or Indexes of the Register of Title Deeds relating to lands or "the General Register," as the case may be, under the same heads and expressing the like particulars as are by this Act required in the case of Assurances to be registered in such registers respectively.

**LXXI.** Any person against whom an Inhibition is entered as aforesaid, or  
Provision for cancelling Inhibition. any person interested in the lands, money or moveable property to which the same relates, may, by writing, signed by such person and lodged at the Register Office, require the Registrar to cancel the entries in the Indexes of such Inhibition, and the Registrar shall, within two days after the receipt of such writing, give notice thereof to the person on whose requisition the Inhibition was entered, and shall state in such notice that on the expiration of fourteen days after the service thereof, the Inhibition will be cancelled, and the service of such notice at the office or place mentioned in the requisition for the Inhibition shall be deemed good service thereof, and at the expiration of the said period of fourteen days after such service, the Registrar, unless sooner restrained by the order of a competent Court as hereinafter mentioned, shall cancel the entries in the Indexes of the said Inhibition.

**LXXII.** It shall be lawful for Her Majesty's Courts of Judicature of the said Towns of Calcutta, Madras, Bombay or Singapore, in which any such Inhibition is registered, or for the Court of Civil Judicature of any District in which any such Inhibition is registered, upon the application of any party interested, by motion or petition in a summary way, without bill or plaint filed, to restrain the Registrar from cancelling the entry of any Inhibition entered under this Act; provided always, that the said Courts respectively shall have full power, upon the application of any party, to discharge or vary such order, and to award such costs

costs on such application as such Courts respectively may see fit, and generally to make such order in relation to the premises as to the said Courts respectively may seem just.

LXXIII. " And whereas it may often happen that some time will elapse pending a Caveat, " or other contract, and that often, by reason of the illness or absence of parties or from other causes, the written transfer of property will be delayed for want of due execution by all the requisite parties, and whereas when Assurances affecting lands are executed for a temporary purpose merely, it may often be inconvenient, and occasion unnecessary expense to register an Assurance affecting such lands, containing all the particulars of the transaction," it is further enacted, that any person may, after the commencement of registration under this Act, by a requisition in writing under his hand, delivered at the proper Register Office, require a Caveat against his own acts to be entered in respect of any lands or money or moveable property in the said Territories to be mentioned in such requisition in favour of any person described therein, for the protection of any Assurance affecting such lands, money or moveable property which shall have been made and executed, or shall be in progress, or shall have been in contemplation at the time of entering such Caveat.

LXXIV. Where a Caveat is so required to be entered, an entry shall be made Mode of entering caveats. in all the Indexes under the same head, and expressing the like particulars, as are under this Act required in the case of an Assurance affecting the lands, money or moveable property mentioned in the requisition for such Caveat, and made by the person requiring such Caveat to be entered.

LXXV. Where a Caveat is duly entered under this Act as to any lands Extent of protection to be afforded by Caveats. in the said Territories, every person claiming for valuable consideration under any Assurance affecting the same lands to be made by the person by whom the entry of the Caveat has been required, or any person claiming under him, to or with the concurrence of the person in whose favour the Caveat was so entered, or his Heirs, Executors Administrators, Representatives or Assigns, and registered in the manner directed by this Act within six calendar months after the Caveat has been so entered as to such lands, shall be entitled to the same preference, protection, and advantage under the provisions of this Act as if such Assurance had been executed and so registered as aforesaid at the time of entering the Caveat :

Not to protect against Insolvency. Provided always, that no such Caveat shall have any force or effect as against the operation of the Insolvency of the person requiring the same to be entered, or any Act under such Insolvency.

LXXVI. Subject to such Regulations as may be from time to time made under this Act, the District Registrar shall, upon the application of any person interested under any Assurance and registering the same under this Act, issue to such person a Certificate of such Registration, and shall thereupon enter in the Index of Titles in which such Assurance is entered, a memorandum of such Certificate ; and the Registrar shall, upon

upon such Certificate being delivered at the Register Office for that purpose, cancel the same, and enter in the Index of Titles a note of such cancellation; and no Assurance by the person to whom such Certificate is issued affecting the lands to which such Certificate relates shall be registered until such Certificate has been cancelled; and such Certificate may be deposited by way of equitable mortgage by the person to whom the same has been issued, and any deposit thereof so made shall have the like effect as the like deposit of the Assurance to which the same relates would have had, but it shall not be necessary to register any equitable mortgage made by deposit of such Certificate.

**LXXVII.** In every case in which, but for this

The duties of Attorneys, &c., to be fulfilled by causing an Office search to be made.

enactment, it would be the duty of any Attorney, Solicitor, or Agent to make any search in any of the Indexes to be kept at the Register Office, such Attorney, Solicitor or Agent shall, as to any search of the result of which the Registrar may be required by the Regulations for the time being in force under this Act to give a Certificate, be held to have fulfilled his duty in that behalf by delivering at the Register Office a proper requisition for such search, stating therein particularly the object of such search, and by obtaining a Certificate from the Registrar of the Office of the result of the same, and shall not be responsible for any

error or mistake in the result of such search as stated in such Certificate, and in all other cases every Attorney, Solicitor, or Agent shall stand indemnified in relying on the accuracy of any Certificate to be made or given in pursuance of this Act.

**LXXVIII.** Each District Registrar, save where otherwise provided by the Regulations to be made as hereinafter mentioned, shall transmit at the end of every month to the Chief Registrar of the Presidency in which his District is situate, copies of every Assurance and of the entries and references thereon, and of the entries in the several Indexes to such Assurances, deposited, registered or made in the said District Registers or Indexes during such month, and the said copies shall be written bookwise or otherwise as the Chief Registrar of each such Presidency shall appoint, and the said Chief Registrar shall cause the said copies of the several Registers and Indexes of each District to be made up into separate books and parcels and shall number and arrange the same in such manner as shall be directed by the Regulations to be made under this Act as hereinafter mentioned.

**LXXIX.** Where there are duplicate ori-

Duplicates of deposited documents may be compared at the Office and certified.

nals of any Assurance which is registered under this Act, it shall be lawful for any person to bring or send to the Chief or District Register Office any duplicate original which has not been deposited in the District Register Office, in order that the same may be compared with the deposited original, or with the copy thereof in the Chief Register Office, and thereupon the document so brought or sent shall be compared accordingly, and any variances which may be found shall be noted in the margin of such document; and in every such case the seal of the Chief or District Register Office, as the case may be, shall be impressed on each skin or sheet of the document brought or sent to be compared as aforesaid;

said; and a Certificate, signed by the proper Officer of the Chief or District Register Office, as the case may be, shall be written at the head or in the margin of such document, or endorsed on the same, which Certificate shall contain a statement that a duplicate of the document in or upon which the same is written has been deposited in the District Register Office, and shall state the parties by whom the deposited original appears to have been executed, and shall specify the book or parcel in which the same is

Every document so certified to be received as evidence that another part of the same Assurance has been deposited.

furnished from the Chief or District Register Office, shall in all cases be evidence that another part of the same Assurance has been deposited in the District Register Office, and is made up in the book or parcel mentioned in such Certificate, and is numbered in such book or parcel as in the said Certificate is specified.

**LXXX.** Subject to the Regulations to be made under this Act, the Chief

Copies of and extracts from deposited instruments to be provided on application, and to be certified.

or District Registrar, as the case may be, shall cause to be provided, for any person applying for the same, copies or extracts from any document which has been deposited in the District Register Office, or from the copy thereof transmitted to the Chief Register Office under this Act, and in every case where a copy or extract is so provided, the seal of the Chief or District Register Office, as the case may be, shall be impressed on each sheet of such copy or extract; and a Certificate, signed by the proper Officer of the said Chief or District Register Office, as the case may be, shall be written at the head or margin of such copy or extract, or endorsed on the same, which Certificate shall contain a statement that the copy or extract on which the same is written is an examined copy of or extract from a document deposited in the District Register Office, or from a copy of such document in the Chief Register Office, as the case may be, and shall specify the book or parcel in which such document is made up, and the number of such document in such book or parcel; and every document

so sealed, with such Certificate thereon, containing such statement and purporting to be so signed as aforesaid, and whether furnished from the District or Chief Register Office, shall be evidence that such document is a copy of or extract from a document deposited in the District Register Office, and made up in the book or parcel specified in such Certificate, and numbered in such book or parcel as in the said Certificate is expressed, and of the contents of the document deposited in the District Register Office, or of such part thereof as is purported to be extracted.

**LXXXI.** Subject to such Regulations as may

be from time to time made under this Act, any person interested under any Assurance, or in the matter of any search, on application at the Chief or District Register Office, shall, at such times as may be limited by the Chief Registrar in this behalf,

Searches of the Indexes to be permitted, and inspections of deposited instruments allowed.

behalf, be allowed to inspect and search any of the Indexes, and to examine and inspect any of the documents, deposited in the Chief or District Register Offices under this Act, and to take extracts from any such Indexes or documents as aforesaid, and the Chief or District Registrar, as the case may be, shall, upon the delivery of such requisitions as under the Regulations hereinafter mentioned, may be required, and in accordance with such Regulations, make or cause to be made such searches in any

of such Indexes, and give such Negative or other Certificates of the results of such searches, as by such Regulations may be directed in this behalf; and every such Certificate shall be sealed with the seal of the Register Office from which it is issued, and shall be signed by the Chief Registrar or Assistant, or District Registrar of such Office, as the case may be.

**LXXXII.** No document deposited in the District Register Office under this Act, and no copy of a document in the Chief Register Office, shall be removed from the same respectively, except in obedience to legal process for the production thereof, and none of the Indexes to be kept at the said Register Offices, respectively, shall be removed from the same on any account whatsoever.

**LXXXIII.** Provided always, that where any Will has been registered under this Act by the deposit of the original Will, the District Registrar shall, upon the request of any person entitled to prove such Will, or to take out Letters of Administration to the testator with such Will annexed, or to take out a Certificate under Act XX. of 1841, such request to be testified by some writing signed by and containing the address of the person making such request, and specifying the Court in which the Will is desired to be proved, or in which administration to the testator with the Will annexed, or a Certificate under Act XX. of 1841 is desired to be taken out, cause such Will, together with a Certificate of the same having been deposited in the District Register Office, which Certificate shall be sealed with the seal of the District Register Office, and signed by the District Registrar, to be transmitted to the Court so specified, in order that the same may be proved in such Court, or that Administration to the Testator with such will annexed, or that such Certificate as aforesaid, may be granted by such Court; and the Registrar or other the Chief Officer of the

After being proved, &c. the will is to be returned.

Testator with such will annexed, or Certificate, have been granted in or by such Court, or immediately after the termination of the proceedings in such Court, cause the same will to be returned to the District Register Office.

**LXXXIV.** For facilitating the making up into books or parcels of the several documents to be deposited at the respective Register Offices under this Act, and for the convenience of reference thereto, it shall be lawful for the Chief Registrar of each Presidency or Place, with

Power to the Registrar to order that documents to be deposited shall be written bookwise or otherwise, &c.

with the consent of the Government thereof, from time to time (either before or after the commencement of registration under this Act) by a notice to be published at least four times in the "Government Gazette," of each Presidency or Place, of which the last time shall be not less than three Calendar months before the time when the same is intended to take effect, to order and direct that all documents of any description, to be specified in such notice, which shall be brought or sent to the Register Office in order to be deposited in the same under this Act (with any exceptions which shall be specified in such notice) shall be written or engrossed bookwise, or in such manner as shall be specified in such notice, and shall be written or engrossed either on paper, vellum, or parchment, as shall in that behalf be in such notice directed, and to order and direct that such paper, vellum or parchment shall be of such description and of

such shape and dimensions as in such notice shall be specified, and if, after the time when any notice to be given in pursuance of this power has taken effect, any document within the meaning of such notice be

brought or sent to the Register Office to be deposited as aforesaid which is not conformable with the directions in respect of the same contained in such notice, the person depositing the same shall pay, in addition to the ordinary fee made payable on such deposit, such extra fee as the Registrar may in each case think fit, not exceeding the amount of the said ordinary fee.

**LXXXV.** It shall be lawful for the Chief Registrar of each Presidency or

Power to the Registrar to require statements for regulating the entries to be sent with Assurances.

Place, with the consent of the Government thereof, from time to time, either before or after the commencement of Registration under this Act, by a notice to be published not less than four times in the "Government Gazette" of such Presidency or Place (of which the last time shall be at least one Calendar month before the time when the same shall be intended to take effect) to require that any statements which may appear to the Chief Registrar necessary or proper for directing or regulating the entries to be made on Registration, and for affording information for the making of such entries, shall be made and brought to the Register Office; and it shall also be lawful for the Chief Registrar, with such consent as aforesaid, by any such notice to specify the form of such statements as aforesaid, and to require that the same shall be signed by the persons respectively requiring the registration, and shall contain the addresses of such persons respectively, and also to require that the same shall be either written or endorsed on the documents to be deposited as aforesaid, or written on separate

No Officer of the Register Office shall be responsible for omissions or mistakes occasioned by defects in the statements.

papers, as the Chief Registrar shall think fit: Provided always that nothing in this Act shall render the Registrar or any other Officer of the Register Office in any way responsible or liable in respect of any loss or damage

which may be sustained or incurred by any person in consequence of the omission of any entry or reference required by this Act to be made in the Register Office, or in consequence of any error in any such entry or reference, in any case where no statement has been sent to the Register

ter Office conformably with any such notice as aforesaid, or in any case where such statement has been so sent as aforesaid, and entries or references in conformity therewith have been made.

**LXXXVI.** It shall be lawful for each District Registrar (subject to any Registrar may correct errors in entries. Regulations to be made as herein-after mentioned under this Act) upon such evidence as may appear to him sufficient in this behalf, to correct errors in entries made, and supply entries omitted to be made, under this Act. Provided always, that in the correction of any such entry he shall not erase or render illegible the original entry, and shall, on correcting or supplying any entry, cause an entry to be made, in connexion with the entry so corrected or supplied, of the time when the same was so corrected or supplied; and every correction made, and omission supplied, under this provision shall be as effectual as if made at the time when the same ought to have been made, but not so as to affect any Assurance registered, or act done, previously to the actual time of the correction of the entry, or supplying the omitted entry.

**LXXXVII.** If any person, making any Affidavit under this Act, shall therein wilfully swear falsely, such person shall be deemed guilty of wilful and corrupt perjury; and all Affidavits to be registered, or deposited in the Register Office under this Act, shall be sworn before a Chief Registrar, Assistant Registrar, District Registrar, Justice of the Peace, or Magistrate of the District, Town, or place where such Affidavit is sworn, or elsewhere, before a Magistrate and attested by a Notary, or before a British Minister, Resident, Consul or Vice Consul.

**LXXXVIII.** If any person shall forge, counterfeit, or imitate, or cause or procure to be forged, counterfeited or imitated, or knowingly act or assist in forging, counterfeiting or imitating, upon any document upon which the seal of the Register Office is authorized to be impressed, the impression or any part of the impression of the Seal of the Register Office, or shall knowingly stamp or mark, or cause or procure to be stamped or marked, or knowingly act or assist in stamping or marking, any such document with any forged or counterfeited Seal of the Register Office, with the intent to defraud any person whomsoever; or shall forge or counterfeit, or cause or procure to be forged or counterfeited, or knowingly act or assist in forging or counterfeiting the name, signature or handwriting of any Officer, in any case in which the signature of such Officer is authorized to be made; or shall forge or counterfeit, or cause or procure to be forged or counterfeited, or knowingly act or assist in forging or counterfeiting the name, signature or handwriting of any person whomsoever, to any instrument or document which is in and by this Act, or shall by the exercise of any power contained in this Act, be required or directed to be signed by such person; or shall, with an intention to defraud any person whomsoever, use any document upon which any impression or part of the impression of any Seal of the Register Office shall have been forged, counterfeited, or imitated, knowing the same to be forged, counterfeited or imitated, or any document the signature of which shall be so forged or

or counterfeited as aforesaid, knowing the same to be forged or counterfeited, every such person so offending, being thereof lawfully convicted, shall be and is hereby declared and adjudged to be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be transported beyond the Seas for life, or for any term not less than seven years, or to be imprisoned (with or without hard labour) for any term not exceeding four years nor less than one year.

**LXXXIX.** It shall be lawful for the Chief Registrar, with consent of Government, to fix fees to be taken under this Act.

Chief Registrar, with consent of Government, to fix fees to be taken in the several Register Offices in such Presidency or place in respect of documents to be registered, entries to be made, Searches, Certificates, Office Copies, and other matters to be done in such Office under this Act, and from time to time to vary or wholly abolish any such fees, and fix new fees.

**XC.** It shall be lawful for the Chief Registrar of each Presidency or place, with the consent of the Government thereof, from time to time, to direct that the fees or other payments which shall be received under the authority of this Act, shall be applied, under such Regulations as they shall appoint, in payment of the current or incidental expenses of the said Offices or any of them.

**XCI.** Such fees and payments as aforesaid, or so much thereof as may not be applied as lastly hereinbefore mentioned in payment of any of the current or incidental expenses of the Register Offices, shall from time to time be paid into the Government Treasury of the Presidency or Place in which such Register Offices are situate.

**XCII.** An Account shall be kept in each District Register Office of the fees and other payments received under the authority of this Act, and of the expenses paid thereout as aforesaid; and such account shall, from time to time, be forwarded to and examined, tried, and audited by the Chief Registrars respectively, as well as the Civil Auditor of each Presidency or Place respectively.

**XCIII.** It shall be lawful for the Governor or Governor in Council of each of the said Presidencies or Places to assign to the Chief Registrar thereof respectively a Salary not exceeding the monthly sum of , and to every Assistant Registrar a Salary not exceeding the monthly sum of , and to each District Registrar a Salary not exceeding the monthly sum of and to assign to the Clerks and other subordinate Officers of the Register Office such Salaries or other remuneration, as to the said Governments respectively shall seem proper.

**XCIV.** Every action or suit which shall be brought by any person to recover damages for or by reason of any loss or damage occasioned by any omission or misfeasance of any Officer of the Register Office to be brought against the Chief Regis-

Actions for damages occasioned by the omission or misfeasance of any Officer of the Register Office to be brought against the Chief Regis-

Actions for damages occasioned by the omission or misfeasance of any Officer of the Register Office shall be brought against the Chief Registrar as the nominal defendant,

tar. If final judgment be recovered, the damages to be paid by Government. defendant, and in case in any such action the plaintiff recover final judgment against such nominal defendant, then, upon the prayer of such plaintiff, the Court or Judge, as the case may be, of the Court where such action or suit shall have been brought, shall and he is hereby directed to certify to the Secretary to the Government of the Presidency or Place in which such action or suit is brought, the fact of such judgment having been so recovered, and the amount of damages and costs recovered; and thereupon, or before the expiration of two Calendar months after such judgment is so certified, the amount of such damages and costs shall be paid by the said Government to the person recovering the same, his Executors, Administrators or representatives. Provided always,

Notice to be given to the Secretaries to Government. that notice in writing of every such action, and of the cause thereof, shall be served upon the Secretaries to Government for the time being, and also upon the Registrar for the time being, one Calendar month at least before the commencement of such action:

The Chief Registrar not to be personally liable. Provided also, that no Chief Registrar, nor the real or personal Estate of any Chief Registrar, shall be in any way chargeable with or upon any judgment recovered as aforesaid; nor shall any process or notice in or relating to any such action, (except as aforesaid) be served upon the Chief Registrar, but all such processes and notices shall be served upon the Secretary to the Government of the Presidency or Place in which such action or suit is brought.

**XCV.** If in any such action or suit judgment be given in favour of the nominal defendant, or the plaintiff withdraw his action or suit, or discontinue, or become non-suit, the plaintiff shall be liable to pay the full costs of defending such action, and the same (when taxed) shall be levied in the name of the nominal defendant by the like process of execution as in other actions or suits of the like nature.

**XCVI.** If at any time before payment to the plaintiff of any damages recovered by any such judgment as aforesaid, an appeal be made from such judgment, such damages shall not be paid until the judgment is affirmed; and if, after payment to the plaintiff of any damages recovered by any such judgment as aforesaid, such judgment be reversed, the Court, by which such judgment is reversed, shall award a writ of restitution against the plaintiff in the name of the nominal defendant, or order the plaintiff to pay the same to the nominal defendant; and when the monies thereby directed to be levied, or any part thereof, are brought into Court, the said Court shall order the same to be paid into the Government Treasury to the account of Government.

**XCVII.** It shall be lawful for the Chief Registrar of each Presidency or place, with the consent of the Government thereof, to enter into and conclude a compromise with any person claiming a right of action or damages by reason of any loss or damage occasioned by any omission, mistake or misfeasance of any Officer of the Register Office; and, upon payment thereof, the person receiving the same shall execute to the Registrar a release of the cause of action in respect of which such payment

Power to the Chief Registrar to compromise any such action.

ment is made, and such release may be pleaded in bar to any action which the person executing the same, or any person claiming under him, shall bring to recover damages for or by reason of any loss or damage occasioned by the same omission, mistake, or misfeasance.

**XCVIII.** Provided also, that the time which

Limitations of by the Act and Regulations now actions brought in force is limited for commencing or suing actions, shall, against the Chief so far as respects any action Registrar. brought in the manner directed by this Act to recover damages for any loss or damage arising from any omission, mistake or misfeasance of any Officer of the Register Office, be computed and run from the time when actual loss or damage has arisen from such omission, mistake, or misfeasance as aforesaid.

**XCIX.** Every action which, under the Provisions of this Act, shall be brought

Actions by and by or against any Chief Registrar against the Registrar not to abate shall be so brought by or against him by his name of Office; and by his death, &c. no such action shall abate by reason of the death or removal from Office of any such Chief Registrar.

**C.** It shall be lawful for the Chief Registrar of each Presidency or place, with the consent of the Government thereof, from time to time, to make such Regulations, as to him may seem proper, for and in relation to all or any of the matters hereinafter mentioned; viz: for determining the cases in which Assurances are to be indexed in the Index of Titles under new heads and existing heads respectively, and the heads under which Assurances are to be indexed in such Index, and in what cases of Assurances indexed in the Index of Titles, references shall be made under any head in such Index to any other head in such Index, and in what cases of Assurances so indexed, entries in respect thereof shall be made in the Indexes of the names of Grantors, or in the Index to Testators and Intestates, or in the Index of Insolvents, (as the case may require,) and providing generally for the convenient classification and arrangement under heads in the Index of Titles of the Assurances to be indexed therein, and the making of such references between any heads of such Index in respect of Assurances connected in Title, and of such entries in the Indexes of the names of the Grantors, the Indexes to Testators and Intestates, and the Index to Insolvents, and any other Index kept in the Register Office, as may, in the opinion of the Chief Registrar, tend to render searches easy and safe.

The particulars to be entered in the Indexes to be kept in the Register Office where entries are required under this Act, and the form and manner of such entries.

The correction of errors and supplying of omissions in entries made under this Act.

The issue of Certificates of Registration in substitution for like Certificates which may have been lost or destroyed.

The making of Copies of, and Extracts from, deposited documents, and the granting of Certificates with reference thereto, and the restrictions and conditions under which such copies, extracts, or Certificates shall be given.

The making of searches of, and providing and issuing extracts from, any of the Indexes to be kept at the Register Office, and granting negative or other certificates with reference thereto, the forms of requisition for such copies, extracts or searches as aforesaid, and the giving of receipts

for documents received at the Register Office, the mode in which, and the restrictions and conditions under which searches of the Indexes kept at the said Office, and inspection of documents deposited there, shall be permitted.

And for regulating all other matters and things whatsoever connected with the regulation and management of the said Register Offices, and the execution of this Act not specially hereby provided for, and generally for giving effect to the provisions of this Act, and from time to time to alter, vary or revoke any such regulations, and make any new regulation in relation to the matters aforesaid; and all regulations to be made under this Act by the Chief Registrar, with such consent as aforesaid, shall be published in the "Government Gazette," and a copy thereof shall be sent to each District Registrar in the said Presidency or place, and such District Registrar shall retain such copy, and permit persons to inspect the same, and to make copies and extracts of and from the same.

**CI. The Chief Registrar of each Presidency or place**

Chief Registrar to report to Government. Reports to be laid before Governor General in Council.

place shall, within one month after the commencement of registration under this Act, send to the Secretary to the Government of such Presidency or place a report of the Districts formed under this Act and of all other Acts and matters done by the Registrar preparatory to such commencement of registration, and shall also, in the month of January in every year, send to such Secretary a general report of his proceedings under this Act, and of the business of the chief Register Office, and of the other District Register offices subordinate to him, and shall specify in such report whether any and what difficulties have arisen in or in relation to registration under this Act, or the searches required to be made, or otherwise in the operation of this Act, or any regulations made thereunder, and whether any and what alterations have been suggested which appear to him expedient, or have occurred to him, and whether the same can or cannot be effected without the aid of the Legislature, and may in such report make such observations or suggestions in relation to the matters aforesaid as the Chief Registrar may think fit; and every such report shall be laid before the Governor General of India in Council, within two months after the receipt thereof, by the said Governments respectively.

**CII. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless such meanings be repugnant or inconsistent with the context, (that is to say)**

Words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular number.

Words importing the masculine gender shall include females.

The word "Person" shall apply to and include corporations.

The word "Assurance" shall extend to a feoffment, grant, bargain, and sale, bill of sale, lease and release, deed of covenant, gift, mortgage, lease or agreement for a lease for a longer period than seven years, and any assignment of such lease, and also to a lien, guarantee, contract, agreement, memorandum, or any document by this Act declared to be an Assurance, or any other deed or document whereby any lands, money or moveable property are conveyed, transferred, appointede

pointed or assigned, except such documents as by Sections XXXIV. and XXXV. of this Act are excepted, and every person claiming derivatively under any Assurance shall be considered as claiming under the same.

The word "Grantor" shall apply to any person by whom lands, money or moveable property shall be conveyed, transferred, appointed, charged, assigned or otherwise affected.

The word "District" shall mean a District formed under this Act.

The word "Lands" shall extend to all lands, tenements and hereditaments of any tenure, and all houses, buildings and walls thereupon, and any estate or interest in the same, whether legal or equitable.

The word "Title" shall extend to a power or right to convey or otherwise affect lands.

The word "Will" shall extend to a Codicil, Wassuyntnumah, or other testamentary paper, or to an appointment by Will, or by writing in the nature of a Will in exercise of a Power.

The word "Addition," where the addition of any person, whose name is required by this Act to be entered in any Index is hereby directed to be entered with such name, shall mean the description as to residence, title, rank, profession or occupation of such person.

The expression "the District in which such Assurance is made" shall mean the District wherein the party who conveys, assures, assigns, transfers, or appoints by such Assurance executes the same, and where two or more parties thereby convey, assure, transfer, assign or appoint, the District in which the same is executed by the second or last party who conveys, assures, transfers, assigns or appoints thereby.

The expression "after the execution thereof by the party who conveys, assures, transfers, assigns or appoints thereby," when there are two or more of such parties, shall mean the second or last party who conveys, assures, transfers, assigns, or appoints thereby.

**SCHEDULE A**  
**FORMS FOR RECEIPT BOOKS.**

**FORM 1.**

**Receipts for "The Register of Titles relating to lands."**

RECEIPT.	RECEIPT.
<i>No. 20</i> <i>Calcutta</i> , District Register Office. Assurance deposited in this Office on the 10th day of <i>January</i> 1853, at $\frac{1}{2}$ past 10 A. M. Date of Assurance, . . . . . 9th <i>January</i> 1853. Parties to ditto, . . . . . <i>Baboo Gooroochurn Ghose</i> of the one part. <i>John Brown and Edward Jones</i> of the other part.	<i>No. 20</i> <i>Calcutta</i> , District Register Office. Assurance deposited in this Office on the 10th day of <i>January</i> 1853, at $\frac{1}{2}$ past 10 A. M. Date of Assurance, . . . . . 9th <i>January</i> 1853. Parties to ditto, . . . . . <i>Baboo Gooroochurn Ghose</i> of the one part. <i>John Brown and Edward Jones</i> of the other part.
Entries in Indexes to "The Register of "Title Deeds relat- "ing to lands." . . .	Entries in Indexes to "The Register of "Title Deeds relat- "ing to lands." . . .
Index of Titles— <i>No. 2 of 50 Hastings' Street, Calcutta.</i>	Index of Titles— <i>No. 2 of 50 Hastings' Street, Calcutta.</i>
Index of the names of <i>Baboo Gooroochurn Ghose</i> , Grantors, . . .	Index of the names of <i>Baboo Gooroochurn Ghose</i> , Grantors, . . .
Index of In- solvents, . . .	Index of In- solvents, . . .
Index of Tes- tators and Intestates, . . .	Index of Tes- tators and Intestates, . . .
Land Index (if any), . . .	Land Index (if any), . . .
Signed <i>John Cox,</i> District Registrar.	Signed <i>John Cox,</i> District Registrar.

**N. B.**—The words and figures in Italics in this Schedule to be filled up as the case may be, and references must be added to all other Indexes in which the Assurance is registered.

**FORM 2.**

**Receipts for "The General Register."**

RECEIPT.	RECEIPT.
<i>No. 50</i> <i>Calcutta</i> , District Register Office. Assurance deposited in this Office, on the 12th day of <i>January</i> 1853, at 20 minutes past 1 P. M. Date of Assurance, . . . . . 10th <i>January</i> 1853. Parties to ditto, . . . . . <i>John Cochrane,</i> <i>Ofl. Assee. of the 1st part,</i> <i>Hurrischunder Ghose,</i> 2nd part, <i>Dwarakanath Bhose,</i> 3rd part.	<i>No. 50</i> <i>Calcutta</i> , District Register Office. Assurance deposited in this Office, on the 12th day of <i>January</i> 1853, at 20 Minutes past 1 P. M. Date of Assurance, . . . . . 10th <i>January</i> 1853. Parties to ditto, . . . . . <i>John Cochrane,</i> <i>Ofl. Assee. of the 1st part,</i> <i>Hurrischunder Ghose,</i> 2nd part, <i>Dwarakanath Bhose,</i> 3rd part.
Entries in Indexes to "The General Re- gister," . . . . .	Entries in Indexes to "The General Re- gister," . . . . .
Index of the names of <i>John Cochrane</i> , Grantors, . . .	Index of the names of <i>John Cochrane</i> , Grantors, . . .
Index of the names of <i>Hurrischunder</i> Insolvents, . . .	Index of the names of <i>Hurrischunder</i> Insolvents, . . .
Index of Tes- tators and Intestates, . . .	Index of Tes- tators and Intestates, . . .
Signed <i>John Cox,</i> District Registrar.	Signed <i>John Cox,</i> District Registrar.

**N. B.**—The words and figures in Italics in this Schedule to be filled up as the case may be, and references must be added to all other Indexes in which the Assurance is registered.

**FORM 3.**

**Receipts for Register of Leases.**

RECEIPT.	RECEIPT.
<i>No. 10</i> <i>Calcutta</i> , District Register Office. Lease deposited in this Office, on the 10th day of <i>January</i> 1853. Date of Lease, . . . . . 9th of <i>January</i> 1853. Parties to ditto, . . . . . <i>Muttyloll Doss,</i> <i>Anundchunder Ghose.</i>	<i>No. 10</i> <i>Calcutta</i> , District Register Office. Lease deposited in this Office, on the 10th day of <i>January</i> 1853. Date of Lease, . . . . . 9th of <i>January</i> 1853. Parties to ditto, . . . . . <i>Muttyloll Doss,</i> <i>Anundchunder Ghose.</i>
Entries in Indexes to "the Register of Leases," . . . . .	Entries in Indexes to "the Register of Leases," . . . . .
Index of Titles, { <i>No. 1 of 20 Flag</i> <i>Street, Calcutta.</i>	Index of Titles, { <i>No. 1 of 20 Flag</i> <i>Street, Calcutta.</i>
Index of the names of Les- sors, . . . . .	Index of the names of Les- sors, . . . . .
Signed <i>John Cox,</i> District Registrar.	Signed <i>John Cox,</i> District Registrar.

**N. B.**—The words and figures in Italics in this Form to be filled up as the case may be.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first Meeting of the Legislative Council of India, after the 20th day of May, 1852.

**FRED. JAS. HALLIDAY,**

*Secy. to the Govt. of India.*



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A

## **DRAFT ACT**

*For the Registration of Assurances in the Territories under the Government of the East India Company.*

*Read in Council for the first time on the 20th day of February 1852.*

*Ordered to be re-considered after the 20th day of May 1852.*

*Cons.*

*No.*

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 27TH FEBRUARY, 1852.

The following Extract from the Proceedings of the Governor General of India in Council, in the Legislative Branch of the Home Department, under date the 27th February 1852, is published for general information:

Read a second time the Draft of a proposed Act, dated the 22nd August 1851, and published in the *Supplement to the Calcutta Gazette* of the 23rd August 1851, to amend the law for the attendance and examination of witnesses in the Civil Courts of the Bengal Presidency.

*Resolution.*—The Governor General in Council resolves, that the following revised Draft on the subject be published for general information:

ACT NO. —— OF 1852.

*An Act to amend the Law of Evidence in the Civil Courts of the Bengal Presidency.*

Whereas the law of evidence administered by the Civil Courts of the Presidency of Fort William in Bengal, and the rules for the attendance and examination of witnesses in such Courts, require amendment, It is enacted as follows:

I. Sections XXXIII. and LXXIII. of Regulation XXIII. of 1814 of the Bengal Code, regarding the examination of witnesses before Moonsiffs and Sudder Ameens, and so much of Section XI. Regulation XXIV. of 1814 of the same Code, and Section I. Act VI. of 1843, as authorizes the examination of witnesses otherwise than personally by the presiding City or Zillah Judge or Principal Sudder Ameen, are hereby repealed.

II. In any regular suit, appeal or miscellaneous proceeding, it shall be lawful for the Judge, upon good and sufficient grounds in the estimation of such Judge being shown, to examine any party to such suit, appeal or proceeding, as a witness, with respect to any question at issue therein, and also to order, in accordance with the provisions herein-after contained, any such party as aforesaid to produce any document in his possession or power. Provided always that female parties, who according to the custom of the country ought not to be compelled

compelled to appear as witnesses in Court, shall be examined as hereinafter in Section XVIII. mentioned. Provided also, that if any party to any such suit, appeal or proceeding as aforesaid shall satisfy the Judge that the subject of inquiry is not one of which such party has personal knowledge, he shall be allowed to name any agent, local manager or other person on his behalf, who has personal knowledge of such matter, and then and in such case, the evidence of the agent, local manager or other person shall be accepted by the Judge in lieu of the evidence of such party, and the statement of the agent, local manager or person so examined shall be held conclusive against the party, in like manner as his own statement would have been.

III. If any party to such suit, appeal or proceeding as aforesaid shall refer to any document in his possession or power, in any pleading or statement filed or made by him in such suit appeal or proceeding, the adverse party, before replying to such pleading or statement, may apply to the Judge before whom such suit appeal or proceeding is pending, to order the production of such document for his inspection, and it shall thereupon be lawful for the said Judge to issue an order in writing, directing the production of such document, at a place and time to be named in such order, and from time to time, by similar orders, to enlarge the time allowed for such production, if the said Judge shall think fit so to do; and if the said party shall not produce the document at the time and place appointed for the production thereof, the Judge may proceed against him in such manner as is provided by Section X. of this Act with respect to parties summoned or examined as witnesses.

IV. After the parties in a suit have filed their exhibits and lists of witnesses whom they desire to summon, the Judge shall, by an order in writing, appoint a day, not less than fifteen nor more than forty days, after the date of such order, for the examination of witnesses and the hearing of the suit.

V. The Judge, or an Officer of the Court to be specially charged with the duty by the Judge, shall, on the requisition of the plaintiff or defendant, or their respective vakeels, issue a summons to every witness whom the parties may name, on payment into Court of such reasonable sum as shall, under the rules established in that respect under the authority of the Sudder Dewan-ny Adawlut, appear to be necessary, to defray the travelling and other expenses of such witness in passing to and from the Court, and being detained thereat. Provided always that no such summons shall be issued to any Hindoo or Mahomedan woman of a rank or quality which, according to the manners and customs of the country, would render it improper to compel her to appear as a witness in a Court of Justice.

VI. Every

VI. Every such summons shall set forth at whose request it has been issued, and shall require the intended witness to appear in the Court on the day named in the summons, and there to give evidence concerning the matter in dispute between the parties. If a witness is required to appear, and to produce before the Court any documents alleged by the party summoning him to be in his possession or power, a direction to attend the Court with such documents shall be inserted in the summons and the nature of each document which the witness may be so called upon to produce shall be set forth in the summons with reasonable certainty.

VII. A witness, not being a party to the suit or proceeding in which he is summoned, shall not be bound to produce his own title deeds, or the title deeds of his principal or client, nor any document relating to affairs of state the production of which would be contrary to good policy, nor any document the production of which would involve a breach of professional confidence on his part. A witness who is a party to the suit or proceeding in which he is summoned, shall not be bound to produce any document in his possession or power which exclusively relates to his own case, and is not relevant and material to the case made by the party opposed to him in such suit, appeal or proceeding, nor any documents which passed between him and his professional advisers relating to the said suit appeal or proceeding, or in contemplation thereof. Provided always, that every party shall be bound to produce all documents mentioned or referred to by himself, in any pleading or statement filed in the suit appeal or proceeding in which he is summoned as a witness.

VIII. Every witness, on receipt of a summons to appear and produce a document in his possession or power as aforesaid, shall be bound to bring such document into Court, although he may have a valid excuse for not disclosing the contents thereof, and the validity of any objection made by such witness to the production of such document in evidence shall be determined by the Court; and for the better determination thereof, it shall be lawful for the Court to receive any affidavit or deposition which the witness may make respecting the said document, and it shall also be lawful for the Court, in their discretion, to inspect the document, and if the Court shall be of opinion that such document should not be produced, the Court shall not disclose the contents thereof to the parties, or take any note, or make any mention thereof, in their judgment or proceedings, but shall return the document at once to the party producing the same.

IX. When the Judge, on the application of either of the parties to such suit appeal or proceeding as aforesaid, or in his own discretion, may determine to proceed under the authority given by

by Section II. of this Act, he shall, if the party whom he may desire to examine be personally present in Court, proceed to take his evidence, and if the party shall not be personally present in Court, but shall be represented by a Pleader, the Judge shall cause to be delivered to such Pleader a notice in writing, for which a receipt shall be taken from the Pleader, desiring the party to appear in Court by a day to be therein named, for the purpose of being examined ; or if a defendant shall not have appeared in Court either personally or by a Pleader, a summons may be issued for his attendance, as in the case of an ordinary witness.

X. If any witness to whom any such Summons as aforesaid shall have been delivered, shall, without lawful excuse, fail to attend on the day appointed, or attending, shall refuse to give evidence, or to subscribe his deposition, or to produce any document named in such Summons as aforesaid which the Judge shall be satisfied the witness has in his possession or power and shall consider he is bound to produce, the Judge shall have full power and authority to issue an order in writing to the Nazir, to seize and bring the witness before the Court, or, if he be already before the Court, to take him into custody, and, in his discretion, may impose on such witness a fine, not exceeding five hundred rupees, for his default, realizable by attachment and sale of his property, and may commit him to close custody until he shall consent to give his evidence, and to sign his deposition, or to produce the document aforesaid ; or, if the witness be a plaintiff or petitioner in the suit or proceeding, his complaint or petition may be dismissed with costs ; and any such fine as aforesaid shall be levied and recovered by attachment and sale of the property of any such witness as aforesaid, and if any such witness, to whom a summons has been delivered, shall abscond or conceal himself so that he cannot be seized and brought before the Court, his property shall be liable to attachment and sale, in the same manner as is provided by Sections XII. XIV. and XV. of this Act with respect to witnesses on whom the Nazir may be unable to serve a summons.

XI. If a witness, who attends pursuant to a summons, shall have incurred any expense in consequence of his being required to appear, the judge shall award to him such sum for his charges as may appear reasonable, whether he be examined or not, and until payment of the sum so awarded, the person summoned may refuse to give evidence.

XII. When a witness after diligent search, to be certified by a return of the Nazir, cannot be found, it shall be deemed a sufficient service of the summons on such witness, if a proclamation requiring his attendance to give evidence be affixed, in the presence and with the attestation of

of two respectable householders of the village, outside of his house or place of usual abode, and if such witness does not attend within four weeks from the date of the proclamation being so affixed, and it is proved to the satisfaction of the Court, on oath, that the evidence of the witness is material to the cause, and that he cannot be found, and that there is good ground for believing that he has absconded to avoid giving evidence therein, his property, real and personal, to such amount as the Judge shall deem reasonable, (but subject to the same limitation as to the articles exempt from attachment as in case of attachment for arrears of rent,) shall be liable to attachment and sale. Provided always, that when the order of attachment and sale shall have been issued by any Court subordinate to the Courts of Sudder Dewanny Adawlut, an appeal shall lie within one month from the date of the order of the subordinate Court to the Court to which its orders are generally appealable, and the rules in force in regard to sales made in execution of decrees, as to the place or manner of sale, and as to claims of third parties to property attached and notified for sale, shall be held applicable to such sales, or to sales in satisfaction of fines under Section X. of this Act.

XIII. It shall not be necessary to postpone the decision of a case for the evidence of a witness confined or absconding beyond such period as may appear proper to the Judge, upon application made to him according to Section XIX. of this Act.

XIV. The cost of the attachment shall be borne in the first instance by the party applying for it, and the Court issuing the summons and attachment shall not proceed to sale of the property, if the person summoned as a witness shall appear and satisfy the Court that his absence was not owing to any wilful default. Upon the appearance of such witness, the Court shall make such order in regard to the costs of the attachment as it shall deem fit, and if the witness appearing shall fail to satisfy the Court that his previous absence was not owing to any wilful default, it shall be in the discretion of the Court to release the property from attachment, upon payment of all costs, and of such fine as the Court may deem reasonable, with reference to the circumstances of the case, and the condition in life of the witness, and such fine may be recovered by sale of his property, a sufficient portion of which may be retained under attachment for that purpose.

XV. All orders as to costs or fines or the levy thereof under the last preceding Section, and all orders passed under Section X. of this Act, shall be subject to the like appeal as hereinbefore in Section XII. mentioned.

XVI. On the day appointed for trial, the judge shall require the parties or their pleaders to state and

and argue on their cases orally in open Court, with reference to the issues previously declared in the proceeding recorded under Section X. Regulation XXVI. of 1814.

XVII. The evidence of the attending witnesses shall be taken in open Court before the parties or their representatives, in the presence and under the personal direction of the judge, and shall be recorded in such manner and according to such forms as shall be from time to time prescribed in that behalf by the Courts of Sudder Dewanny Adawlut.

XVIII. In cases where the evidence is needed of females who, according to the customs of the country, ought not to be compelled to appear as witnesses in a Court of Justice, or in any other case in which the Judge shall be of opinion that the ends of justice require and justify it, he may issue a Commission to any Officer of his Court or other person to be named in such Commission for the examination of such females or persons, in the presence of both parties to the suit or their Vakeels, and with liberty to the parties or their Vakeels to cross-examine, anything in Section V. of Act VII. of 1841 to the contrary notwithstanding.

XIX. If it shall be proved to the satisfaction of the Judge that any application has been preferred to him for the examination of any party to a suit appeal or proceeding from vexatious or malicious motives, it shall be lawful for such Judge to impose a fine, not exceeding one thousand rupees, on the party by whom or on whose behalf such application shall have been made, and the said fine shall be realized in like manner as other fines imposed under Section X., and the orders imposing such fines, or for the attachment and sale of the property of such person, shall be subject to the same appeal as hereinbefore in Section XII. provided.

XX. On or before the day appointed for trial, the Judge may, for any sufficient reason, such as the unavoidable absence of any material witness, or for other good cause, on the application of either party, postpone the hearing to another day, to be named, on such terms as to the payment of the costs of postponement to the other party, as to the Judge shall seem reasonable.

XXI. The recording of evidence on the trial of any suit, when begun under the rules above enacted, shall continue on the same day, or on consecutive days, until the whole of the evidence of the witnesses present has been heard, and after considering such testimony and the documentary evidence adduced, the Judge shall record his judgment under Act XII. of 1843.

XXII. The Judge, on the application of either party, shall cause public notice to be given in Court,

Court, either before or during the examination of any witness, requiring all other witnesses who have been summoned in the same cause, and who are present in Court, to leave the Court. Any witness in a cause who remains in Court after the giving of such notice, shall be punishable as for contempt, and shall be liable at the discretion of the Judge to any fine not exceeding rupees 200, or to imprisonment in the Civil Jail with or without labor for any term not exceeding three Calendar months.

XXIII. Any party to a suit appeal or proceeding who is examined as a witness therein, shall be examined under the same rules as are now in force for the examination of other witnesses, and shall be liable, in respect of any false evidence given by him on any issue material to such suit appeal or proceeding, to punishment for perjury, under the provisions of Regulation II. of 1807.

XXIV. The word "Judge," as used in this Act, shall be taken to mean the person presiding, or having the chief judicial authority in any Court, however designated, in the Presidency of Bengal or in places subordinate thereto.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be reconsidered at the first meeting of the Legislative Council of India, after the 27th day of April next.

FRED. JAS. HALLIDAY,  
*Secy. to the Govt. of India.*

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## **DRAFT ACT**

*To amend the Law of Evidence in the Civil Court  
of the Bengal Presidency.*

*Read in Council for the second time on the 27th  
day of February 1852.*

*Ordered to be re-considered after the 27th day  
of April next.*

*Cons.*

No.

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 27TH FEBRUARY 1852.

The following Draft of a proposed Act was read in Council for the first time on the 27th of February 1852.

Act No. — of 1852.

*An Act to confer upon certain Inhabitants of the Territories in India under the Government of the East India Company, the rights of subjects of Her Majesty.*

Whereas it is expedient to remove by law doubts that may have arisen as to the Civil and Political rights of certain persons domiciled in the Territories in India under the Government of the East India Company, and to provide for the naturalization of such persons, not being by law entitled to be regarded as subjects of Her Majesty, It is enacted as follows :

I. All persons actually domiciled in the said Territories, who shall have resided, or shall continue to reside therein, or in some other part of Her Majesty's dominions, until they shall have been resident inhabitants of Her Majesty's dominions for the space of seven years continually, without having been during that time stated residents in any foreign country, shall be deemed, adjudged and taken to be natural born subjects of Her Majesty, as if they and every of them had been born within the said Territories under the Government of the said East India Company. Provided always, that no such person shall be entitled to the benefit of this Act unless he shall, after he shall have completed such stated residence of seven years continually, apply for and obtain the permission in writing of the Governor in Council, Governor, or Lieutenant Governor of the Presidency or place in which he is resident to become naturalized as aforesaid, and take and subscribe the oath, or, if he be a person allowed by law to affirm in civil cases, make the declaration, contained in the Schedule annexed to this Act, before some Justice of the Peace or Magistrate.

II. Nothing

II. Nothing in this Act contained shall be construed so as to deprive the Courts of the East India Company of jurisdiction over any such naturalized person, or to give to the Courts of Her Majesty any jurisdiction over any such person not otherwise subject to such jurisdiction.

III. All Justices of the Peace or Magistrates within the said Territories are hereby empowered to administer the oath or affirmation contained in the Schedule annexed to this Act to all persons desirous of taking or making the same, who shall produce the written permission of the Governor in Council, Governor, or Lieutenant Governor hereinbefore mentioned, and the said Justices or Magistrates shall record the Administration of such oath or affirmation in their proceedings, and shall file and preserve a copy thereof subscribed by the person taking or making the same, and shall report the name and description of every such person to the Secretary to the Government of the Presidency in which such oath or affirmation is taken or made.

#### SCHEDULE.

##### OATH.

I, A. B., of (*here state the description of the party*) do swear (*or being one of the persons allowed by law to affirm in civil cases do affirm,*) that I have resided seven years in Her Majesty's dominions, without having been, during that time, a stated resident in any foreign country, and that I will be faithful and bear true allegiance to the Sovereign of the United Kingdom of Great Britain and Ireland, and of these territories as dependant thereon.

(Signed) A. B.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first Meeting of the Legislative Council of India after the 27th day of May next.

FRED. JAS. HALLIDAY,  
*Secy. to the Govt. of India.*



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## DRAFT ACT

*To confer upon certain Inhabitants of the Territories in India under the Government of the East India Company, the rights of subjects of Her Majesty.*

*Read in Council for the first time on the 27th of February, 1852.*

*Ordered to be re-considered after the 27th day of May next.*

*Cons.*

*No.*

## ACT NO. XV. OF 1852.

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***Passed by the Governor General of India in Council on  
the 12th March, 1852.***

*An Act to amend the Law of Evidence.*

WHEREAS it is expedient to amend the law of Evidence in divers particulars, It is hereby enacted as follows:

I. So much of Section I. of Act VII. of 1844 as provides that the Repeal of part of Section I. of Act VII. of 1844. said Act shall “not render competent any party to any suit, action, or proceeding individually named in the record, or any lessor of the plaintiff or tenant of premises sought to be recovered in ejectment, or the landlord or other person in whose right any defendant in replevin may make cognizance, or any person in whose immediate and individual behalf any action may be brought or defended, either wholly or in part,” is hereby repealed.

II. On the trial of any issue joined, or of any matter or question, or Parties to be admissible  
witnesses. on any inquiry arising in any suit, action, or other proceeding in any of Her Majesty’s Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence with respect to, or concerning any suit,

## ACT NO. XV. OF 1852.

suit, action, or other proceeding in any of such Courts, the parties thereto, and the persons in whose behalf any such suit, action, or other proceeding, may be brought or defended, shall, except as hereinafter excepted, be competent and compellable to give evidence, either *vivâ voce*, or by deposition, according to the practice of the Courts, on behalf of either or any of the parties to the said suit, action, or other proceeding.

### III. But nothing herein contained shall render any person, who in

Parties not compellable to criminate themselves. Husband and wife not compellable to give evidence for or against each other.  
any criminal proceeding is charged with the commission of any indictable offence, or any offence punishable on summary conviction, competent or compellable to give evidence for or against himself or herself, or shall render

any person compellable to answer any question tending to criminate himself or herself, or shall in any criminal proceeding render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband.

### IV. Nothing herein contained shall apply to any action, suit, or pro-

Act not to apply to proceedings for adultery or to actions for breach of promise of marriage.  
ceeding in any Court of Common Law, or in any Ecclesiastical Court, instituted in consequence of adultery, or to any action for breach of promise of marriage.

### V. Nothing herein contained shall repeal any provision contained

The Wills' Act not repealed.  
in Act XXV. of 1838.

### VI. Whenever any action or other legal proceeding shall henceforth

Courts authorized to compel inspection of documents in actions and other proceedings whenever Equity would grant discovery.  
be pending in any of Her Majesty's Courts, such Court and each of the Judges thereof may respectively, on application made for such purpose by either of the litigants, compel the opposite party to allow the party making

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making the application to inspect all documents in the custody or under the control of such opposite party relating to such action or other legal proceeding, and, if necessary, to take examined copies of the same, or to procure the same to be duly stamped, in all cases in which previous to the passing of this Act, a discovery might have been obtained by filing a bill, or by any other proceeding in a Court of Equity at the instance of the party so making application as aforesaid to the said Court or Judge. Provided always, that every such application shall be made as aforesaid before issue joined in any such action, and twenty-one days before the trial or hearing of any other legal proceeding.

### VII. All Proclamations, Treaties, and other Acts of State of any

Foreign State, or of the East India Company, or of any Territory under the Government of the East India Company, or of any British Colony, and all judgments, decrees, orders, and other judicial proceedings of any Court of Justice in any Foreign State, or in any of the

Foreign and Colonial Acts of State, judgments, &c., provable by certified copies, without proof of seal or signature or judicial character of person signing the same.

Territories under the Government of the East India Company, or in any British Colony, and all affidavits, pleadings, and other legal documents filed or deposited in any such Court, may be proved in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, either by examined copies, or by copies authenticated as hereinafter mentioned; that is to say, if the document sought to be proved be a Proclamation, Treaty, or other Act of State, the authenticated copy to be admissible in evidence must purport to be sealed with the Seal of the Foreign State, or of the East India Company, or of the Territory under the Government of the East India Company, or of the British Colony to which the original document belongs; and if the document sought to be proved be a judgment, decree, order, or other judicial proceeding of any Foreign or Colonial Court, or of any Court within the Territories under the

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the Government of the East India Company, or an affidavit, pleading, or other legal document filed or deposited in any such Court, the authenticated copy to be admissible in evidence, must purport either to be sealed with the Seal of the Foreign or Colonial Court, or Court within the Territories under the Government of the East India Company to which the original document belongs, or in the event of such Court having no Seal, to be signed by the Judge, or if there be more than one Judge, by any one of the Judges of the said Court, and such Judge shall attach to his signature a statement in writing on the said copy that the Court whereof he is a Judge has no Seal; but if any of the aforesaid authenticated copies shall purport to be sealed or signed as hereinbefore respectively directed, the same shall respectively be admitted in evidence in every case in which the original document could have been received in evidence, without any proof of the Seal, where a Seal is necessary, or of the signature, or of the truth of the statement attached thereto, where such signature and statement are necessary, or of the judicial character of the person appearing to have made such signature and statement.

### VIII. Every Register of a Vessel kept under Act X. of 1841, or

Registers of British  
Vessels and Certificates of  
Registry admissible with-  
out proof of signature.

under any of the Acts of Parliament relating to the registry of British Vessels, may be proved in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, either by the production of the original, or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the person having the charge of the original, and which person is hereby required to furnish such certified copy to any person applying at a reasonable time for the same, upon payment of the sum of one Rupee; and every such Register, or such copy of a Register, and also every Certificate of Registry granted under the said Act or any of the Acts of Parliament relating to the registry of British Vessels, and purporting

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porting to be signed as required by law, shall be received in evidence in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, as *primâ facie* proof of all the matters contained or recited in such Register, when the Register, or such copy thereof as aforesaid, is produced, and of all the matters contained or recited in or endorsed on such Certificate of Registry when the said Certificate is produced.

### IX. Whenever in any proceeding whatever it may be necessary to

Where necessary to prove conviction or acquittal, not necessary to produce record, but Certificate of Clerk of Court.

prove the trial and conviction or acquittal of any person charged with any indictable offence, it shall not be necessary to produce the record of the conviction or

acquittal of such person, or a copy thereof, but it shall be sufficient that it be certified or purport to be certified under the hand of the Clerk of the Court or other Officer having the custody of the records of the Court where such conviction or acquittal took place, or by the Deputy of such Clerk or other Officer, that the paper produced is a copy of the record of the indictment, trial, conviction, and judgment or acquittal, as the case may be, omitting the formal parts thereof.

### X. Whenever any book or other document is of such a public nature

Examined or certified copies of documents admissible.

as to be admissible in evidence on its mere production from the proper custody, and no Statute or Act exists

which renders its contents provable by means of a copy, any copy thereof, or extract therefrom, shall be admissible in evidence in any of Her Majesty's Courts of Justice, or before any person now or hereafter having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, provided it be proved to be an examined copy or extract, or provided it purports to be signed and certified as a true copy or extract by the Officer to whose custody the origi-

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nal is entrusted, and which Officer is hereby required to furnish such certified copy or extract to any person applying at a reasonable time for the same, upon payment of a reasonable sum for the same, not exceeding four annas for every folio of ninety words.

**XI.** If any Officer authorized or required by this Act to furnish any Certifying a false document a misdemeanor. certified copies or extracts shall wilfully certify any document as being a true copy or extract, knowing that the same is not a true copy or extract, as the case may be, he shall be guilty of a misdemeanor, and be liable, upon conviction, to imprisonment for any term not exceeding eighteen months.

**XII.** All Her Majesty's Courts within the British Territories under the Government of the East India Company, and every Judge and Justice of such Courts, and every Officer, Commissioner, Arbitrator or other person, now or hereafter having, by law or by consent of parties, authority to hear, receive, and examine evidence with respect to or concerning any suit, action, or other proceeding in any of such Courts, is hereby empowered to administer an oath to all such witnesses as are legally called before them respectively.

**XIII.** If any person shall forge the seal, stamp, or signature of any document in this Act mentioned or referred to, or shall tender in evidence any such document with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, he shall be guilty of felony, and shall, upon conviction, be liable to transportation for seven years, or to imprisonment for any term not exceeding three years, nor less than one year, with hard labour; and whenever any such document shall have been admitted in evidence by virtue of this Act, the Court, or the person who shall have admitted the same, may, at the request of any party

Persons forging seal, stamp, or signature of certain documents, or wilfully uttering the same, guilty of felony.

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party against whom the same is so admitted in evidence, direct that the same shall be impounded and be kept in the custody of some Officer of the Court or other proper person, for such period, and subject to such conditions, as to the said Court or person shall seem meet; and every person who shall be charged with committing any felony under this Act may be dealt with, indicted, tried, and, if convicted, sentenced, and his offence may be laid and charged to have been committed in the place in which he shall be apprehended or be in custody; and every accessory before or after the fact to any such offence may be dealt with, indicted, tried, and, if convicted, sentenced, and his offence may be laid and charged to have been committed in any place in which the principal offender may be tried.

XIV. This Act shall come into operation from and after the tenth day of April, One thousand eight hundred and fifty-two.



## ACT No. XVI. OF 1852.

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*Passed by the Governor General of India in Council on  
the 12th March, 1852.*

*An Act for further Improving the Administration of Criminal Justice  
in Her Majesty's Courts of Justice in the Territories of the  
East India Company.*

WHEREAS offenders frequently escape conviction on their trials, by reason of the technical strictness of criminal proceedings in matters not material to the merits of the case; and whereas such technical strictness may safely be relaxed in many instances, so as to insure the punishment of the guilty, without depriving the accused of any just means of defence; and whereas a failure of justice often takes place on the trial of persons charged with felony and misdemeanor by reason of variances between the statement in the indictment on which the trial is had, and the proof of names, dates, matters, and circumstances therein mentioned, not material to the merits of the case, and by the misstatement whereof the person on trial cannot have been prejudiced in his defence, It is hereby enacted as follows:

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### I. From and after the coming of this Act into operation, whenever,

The Court may amend certain variances not material to the merits of the case, and by which the defendant cannot be prejudiced in his defence, and may either proceed with or postpone the trial to be had before the same or another jury.

on the trial of any indictment for any felony or misdemeanor, there shall appear to be any variance between the statement in such indictment and the evidence offered in proof thereof, it shall and may be lawful for the Court before which the trial shall be had, if it shall consider such variance not material to the merits of the case, and that the defendant cannot be prejudiced thereby in his defence on such merits, to order such indictment to be amended, according to the proof, by some Officer of the Court or other person, both in that part of the indictment where such variance occurs, and in every other part of the indictment which it may become necessary to amend, on such terms as to postponing the trial to be had before the same or another jury, as such Court shall think reasonable ; and after any such amendment the trial shall proceed, whenever the same shall be proceeded with, in the same manner in all respects, and with the same consequences, both with respect to the liability of witnesses to be indicted for perjury and otherwise, as if no such variance had occurred : provided that, in all such cases where the trial shall be so postponed as aforesaid, it shall be lawful for such Court to respite the recognizances of the prosecutor and witnesses, and of the defendant, and his surety or sureties, if any, accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence respectively, and the defendant shall be bound to attend to be tried, at the time and place to which such trial shall be postponed, without entering into any fresh recognizances for that purpose, in such and the same manner as if they were originally bound by their recognizance to appear and prosecute, or give evidence, at the time and place to which such trial shall have been so postponed : Provided also, that where any such trial shall be to be had before another jury, the Crown and the defendant shall respectively be entitled to the same challenges as they were respectively entitled to before the first jury was sworn.

### II. Every

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### II. Every verdict and judgment which shall be given after the making

Verdicts and judgments valid after amendments. of any amendment under the provisions of this Act, shall be of the same force and effect in all respects as if the indictment had originally been in the same form in which it was after such amendment was made.

### III. If it shall become necessary at any time, for any purpose

Records to be drawn up in amended form, without noticing the amendments. whatsoever, to draw up a formal record in any case where any amendment shall have been made under the provisions of this Act, such record shall be drawn up in the form in which the indictment was after such amendment was made, without taking any notice of the fact of such amendment having been made.

### IV. In any indictment for murder or manslaughter preferred after

The means by which the injury was inflicted need not be specified in indictments for murder and manslaughter. the coming of this Act into operation, it shall not be necessary to set forth the manner in which, or the means by which, the death of the deceased was caused, but it shall be sufficient, in every indictment for murder, to

charge that the defendant did feloniously, wilfully, and of his malice aforethought kill and murder the deceased, and it shall be sufficient in every indictment for manslaughter to charge that the defendant did feloniously kill and slay the deceased.

### V. In any indictment for forging, uttering, stealing, embezzling,

Forms of indictment in cases of forgery and uttering, stealing, and embezzling, or obtaining by false pretences.

destroying, or concealing, or for obtaining by false pretences, any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport

thereof, without setting out any copy or fac-simile thereof, or otherwise describing the same, or the value thereof.

### VI. In

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**VI.** In any indictment for engraving or making the whole or any part of any instrument, matter, or thing whatsoever, or for using or having the unlawful possession of any plate, or other material upon which the whole or any part of any instrument, matter, or thing whatsoever shall have been engraved or made, or for having the unlawful possession of any paper upon which the whole or any part of any instrument, matter, or thing whatsoever shall have been made or printed, it shall be sufficient to describe such instrument, matter, or thing by any name or designation by which the same may be usually known, without setting out any copy or fac-simile of the whole or any part of such instrument, matter, or thing.

**VII.** In all other cases, wherever it shall be necessary to make any averment in any indictment as to any instrument, whether the same consists wholly or in part of writing, print, or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or fac-simile of the whole or any part thereof.

**VIII.** From and after the coming of this Act into operation, it shall be sufficient in any indictment for forging, uttering, offering, disposing of, or putting off any instrument whatsoever, or for obtaining or attempting to obtain any property by false pretences, to allege that the defendant did the act with intent to defraud, without alleging the intent of the defendant to be to defraud any particular person; and on the trial of any of the offences in this section mentioned, it shall not be necessary to prove an intent on the part of the defendant to defraud any particular person, but it shall be sufficient to prove that the defendant did the act charged with an intent to defraud.

**IX.** And

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### IX. And whereas offenders often escape conviction by reason that

A party indicted for felony or misdemeanor may be found guilty of an attempt to commit the same, and shall be liable to the same consequences as if charged with and convicted of the attempt only. No person so tried to be afterwards prosecuted for the same.

such persons ought to have been charged with attempting to commit offences, and not with the actual commission thereof; it is enacted, that if on the trial of any person charged with any felony or misdemeanor, it shall appear to the jury upon the evidence that the defendant did not complete the offence charged, but that he was

guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the felony or misdemeanor charged, but is guilty of an attempt to commit the same, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanor charged in the said indictment; and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the felony or misdemeanor for which he was so tried.

### X. And whereas it is enacted by the 8th Section of Act XXXI.

Repeal of the 8th Section of Act XXXI. of 1838. of 1838 that "on the trial of any person for any of the offences thereinbefore mentioned, or for any felony

whatever where the crime charged shall include an assault against the person, it shall be lawful for the jury to acquit of the felony, and to find a verdict of guilty of assault against the person indicted, if the evidence shall warrant such finding": and whereas great difficulties have arisen in the construction of such enactment: for remedy thereof it is enacted that the said enactment shall be and the same is hereby repealed.

### XI. If upon the trial of any person upon any indictment for robbery, it shall appear to the jury upon the evidence that

On the trial of an indictment for robbery, the jury may convict of an assault with intent to rob: no person so tried to be afterwards prosecuted for the same. the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not by reason thereof be entitled to be

acquitted,

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acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of an assault with intent to rob, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting with intent to rob ; and no person so tried as is herein lastly mentioned shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried.

### XII. If upon the trial of any person for any misdemeanor, it shall

Person tried for mis-  
demeanor not to be acquit-  
ted if the offence turn out  
to be felony, unless the  
Court so direct.

appear that the facts given in evidence amount in law to a felony, such person shall not by reason thereof be entitled to be acquitted of such misdemeanor ; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for felony on the same facts, unless the Court before which such trial may be had shall think fit, in its discretion, to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor.

### XIII. If upon the trial any person indicted for embezzlement as a

Persons indicted for em-  
bezzlement, as a clerk,  
&c., not to be acquitted if  
the offence turn out to be  
larceny, and *vice versa*.

clerk, servant, or person employed for the purpose, or in the capacity of a clerk or servant, it shall be proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of embezzlement, but is guilty of simple larceny, or of larceny as a clerk, servant, or person employed for the purpose, or in the capacity of a clerk or servant, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such larceny ; and if upon the trial of any person indicted for larceny it shall be proved that he took the property in question in any such manner as to amount in law to embezzlement, he shall not by reason thereof be entitled to be acquitted, but

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but the jury shall be at liberty to return as their verdict that such person is not guilty of larceny, but is guilty of embezzlement, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement; and no person so tried for embezzlement or larceny as aforesaid shall be liable to be afterwards prosecuted for larceny or embezzlement upon the same facts.

### XIV. If upon the trial of two or more persons indicted for jointly

Upon an indictment for jointly receiving, persons guilty of separately receiving may be convicted. receiving any property, it shall be proved that one or more of such persons separately received any part of such property, it shall be lawful for the jury to convict upon such indictment such of the said persons as shall be proved to have received any part of such property.

### XV. And whereas it frequently happens that the principal in a felo-

Separate accessories and receivers may be included in the same indictment in the absence of the principal felon. ny is not in custody or amenable to justice, although several accessories to such felony or receivers at different times of stolen property the subject of such felony may be in custody or amenable to justice: for the prevention of several trials, it is enacted that any number of such accessories or receivers may be charged with substantive felonies in the same indictment, notwithstanding the principal felon shall not be included in the same indictment, or shall not be in custody or amenable to justice.

### XVI. It shall be lawful to insert several counts in the same indict-

Three larcenies from the same person within six months may be included in the same indictment. ment against the same person for any number of distinct acts of stealing, not exceeding three, which may have been committed by him against the same person within the space of six calendar months from the first to the last of such acts, and to proceed thereon for all or any of them.

### XVII. If

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**XVII.** If upon the trial of any indictment for larceny, it shall

Where a single taking is charged, the prosecutor need not elect, unless where more than three takings, or more than six months between the first and last taking.

appear that the property alleged in such indictment to have been stolen at one time was taken at different times, the prosecutor shall not by reason thereof be required to elect upon which taking he will proceed, unless it shall appear that there were more than three takings, or that more than the space of six calendar months elapsed between the first and the last of such takings; and in either of such last-mentioned cases the prosecutor shall be required to elect to proceed for such number of takings, not exceeding three, as appear to have taken place within the period of six calendar months from the first to the last of such takings.

**XVIII.** In every indictment in which it shall be necessary to make

Coin and bank-notes may be described simply as money.

any averment as to any money or any note of any bank, it shall be sufficient to describe such money or bank-note simply as money, without specifying any particular coin or bank-note; and such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of coin or of any bank-note, although the particular species of coin of which such amount was composed, or the particular nature of the bank-note, shall not be proved, and in cases of embezzlement and obtaining money or bank-notes by false pretences, by proof that the offender embezzled or obtained any piece of coin or any bank-note, or any portion of the value thereof, although such piece of coin or bank-note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to any other person, and such part shall have been returned accordingly.

**XIX.** In every indictment for perjury, or for unlawfully, wilfully,

Simplifying indictments for perjury and other like offences.

falsely, fraudulently, deceitfully, maliciously, or corruptly taking, making, signing, or subscribing any oath,

affirmation,

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affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what Court or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing was taken, made, signed, or subscribed, without setting forth the bill, answer, information, indictment, declaration, or any part of any proceeding either in law or in equity, and without setting forth the commission or authority of the Court or person before whom such offence was committed.

### XX. In every indictment for subornation of perjury, or for corrupt

As to form of indictments for subornation of perjury and other like offences. bargaining or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing, or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously or corruptly to take, make, sign or subscribe any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient, wherever such perjury or other offence aforesaid shall have been actually committed, to allege the offence of the person who actually committed such perjury or other offence in the manner hereinbefore mentioned, and then to allege that the defendants unlawfully, wilfully, and corruptly did cause and procure the said person the said offence, in manner and form aforesaid, to do and commit; and wherever such perjury or other offence aforesaid shall not have been actually committed, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averred in the case of wilful and corrupt perjury.

### XXI. No indictment for any offence shall be held insufficient for

What defects shall not vitiate an indictment. want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears

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by the record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the statute," instead of "against the form of the statutes," or *vice versa*, nor for that any person mentioned in the indictment is designated by a name of office, or other descriptive appellation, instead of his proper name, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment, or on an impossible day, or on a day that never happened, nor for want of a proper or perfect venue, nor for want of a proper or formal conclusion, nor for want of or imperfection in the addition of any defendant, nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury, or spoil, in any case where the value or price, or the amount of damage, injury, or spoil, is not of the essence of the offence.

### XXII. Every objection to any indictment for any formal defect

Formal objections to indictments shall be taken before jury are sworn ; Court may amend any formal defect. apparent on the face thereof shall be taken, by demurrer or motion to quash such indictment, before the jury shall be sworn, and not afterwards ; and every Court before which any such objection shall be taken for any formal defect may, if it be thought necessary, cause the indictment to be forthwith amended in such particular by some Officer of the Court, or other person, and thereupon the trial shall proceed as if no such defect had appeared.

### XXIII. No person prosecuted shall be entitled to traverse or post-

Provision as to traversing indictments. pone the trial of any indictment found against him at any Session of the Peace, Session of Oyer and Terminer, or Session of Gaol Delivery ; provided always that if the Court, upon the application of the person so indicted or otherwise, shall be of opinion

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opinion that he ought to be allowed a further time, either to prepare for his defence or otherwise, such Court may adjourn the trial of such person to the next subsequent Session, upon such terms as to bail or otherwise as to such Court shall seem meet, and may respite the recognizances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent Session without entering into any fresh recognizance for that purpose.

### XXIV. In any plea of *autrefois convict* or *autrefois acquit* it

Provision as to plea of  
*autrefois convict* or *autrefois acquit.* shall be sufficient for any defendant to state that he has been lawfully convicted or acquitted (as the case may be) of the said offence charged in the indictment.

### XXV. Whenever any person shall be convicted of any one of the

Punishment for certain  
indictable misdemeanors. offences following, as an indictable misdemeanor; that is to say,—any cheat or fraud punishable at Common Law; any conspiracy to cheat or defraud, or to extort money or goods, or falsely to accuse of any crime, or to obstruct, prevent, pervert, or defeat the course of public justice; any escape or rescue from lawful custody, on a criminal charge; any public and indecent exposure of the person; any indecent assault, or any assault occasioning actual bodily harm; any attempt to have carnal knowledge of a girl under twelve years of age; any public selling, or exposing for public sale or to public view, of any obscene book, print, picture, or other indecent exhibition, it shall be lawful for the Court to sentence the offender to be imprisoned for any term now warranted by law, and also to be kept to hard labour during the whole or any part of such term of imprisonment.

### XXVI. In the construction of this Act the word “indictment”

Interpretation of terms. shall be understood to include “information,” “inquisition,” and “presentment,” as well as “indictment,” and also

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also any "plea," "replication," or other pleading; and the terms "finding of the indictment," shall be understood to include "the taking of an inquisition," "the exhibiting of an information," and "the making a presentment"; and wherever in this Act, in describing or referring to any person or party, matter, or thing, any word importing the singular number or masculine gender is used, the same shall be understood to include and shall be applied to several persons and parties as well as one person or party, and females as well as males, and bodies corporate as well as individuals, and several matters and things as well as one matter or thing; and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed.

**XXVII.** This Act shall come into operation from and after the tenth day of April, One thousand eight hundred and fifty-two.

Commencement of Act.

## ACT NO. XVII. OF 1852.

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*Passed by the Governor General of India in Council on  
the 12th March 1852.*

*An Act to diminish the expense and delay of proceedings in Her Majesty's Courts within the Territories of the East India Company.*

**I.** IT shall be lawful for persons interested or claiming to be interested in any question cognizable in Her Majesty's Courts within the Territories of the East India Company, on the Equity, Plea, Ecclesiastical or Admiralty sides thereof respectively, and including among such persons all lunatics, married women, and infants in the manner and under the restrictions herein-after contained, to concur in stating such question in the form of a special case for the opinion of the said Courts, and it shall also be lawful for all Executors, Administrators, Representatives, and Trustees to concur in such case

Persons interested in questions cognizable in Her Majesty's Courts may state special cases for the opinion of such Courts.

**II.** The Committee of the estate of any lunatic interested or claiming to be interested in any such question as aforesaid may, after having been authorized in that behalf by the Court or any Judge thereof in which such special case is filed, concur in such case in his own name, and in the name and on the behalf of the lunatic.

How lunatic may concur.

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**III. A husband interested or claiming to be interested in right of his wife in any such question as aforesaid may concur in such case in his own name and in the name of his wife where the wife has no claim to any interest distinct from her husband, and a married woman having or claiming any interest in any such question as aforesaid distinct from her husband may in her own right concur in such case, provided that her husband also concurs therein ; but nothing herein contained shall be construed so as to require the husband of a Mahomedan or Hindoo female to concur in such case.**

**IV. The guardian of any infant interested or claiming to be interested in any such question as aforesaid may concur in such case in the name and on the behalf of the infant, unless such guardian has an interest in such question adverse to the interest of the infant therein.**

**V. It shall be lawful for the said Courts, by order to be made in the matter of any lunatic not found such by inquisition, or in the matter of any infant, upon the application of any person on the behalf of such lunatic, or upon the application of such infant, by motion or petition, to appoint any person shown by affidavit to be a fit person, and to have no interest adverse to the interest of the lunatic or infant, to be the special guardian of such lunatic or infant for the purpose of concurring in such case in the name and on behalf of the lunatic or infant, and any such person so appointed may lawfully so concur. Provided always, that it shall be lawful for the said Courts to require notice of such application to be given to such person, if any, as the Court shall think fit.**

**VI. In any case in which any such order as aforesaid shall have been made by the said Courts, in the matter of any infant without notice to the guardian of the infant, it shall be lawful for the said Courts, if they shall respectively think**

## ACT No. XVII. OF 1852.

think fit so to do, to discharge such order upon the application of such guardian, by motion or petition; and the said Courts, if they shall respectively think fit, may thereupon appoint some other fit person to be the special guardian of such infant for the purpose of such special case, and may also give such directions as may be necessary for substituting in such special case either the name of the guardian so applying, or of the special guardian so appointed, in lieu of the name of the special guardian so displaced. Provided always, that the discharge of any Order appointing a special guardian shall not invalidate any thing which shall in the meantime have been done by such special guardian, unless the Court shall, upon notice to all parties, specially so direct.

### VII. Every such special case shall be entitled as a cause between

How special cases to be entitled. some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant; and in the title to such cases, lunatics and infants shall be described as such, and their Committees, guardians, or special guardians named; and where in any such case a married woman is named as a plaintiff, and her husband as a defendant thereto, a next friend of such married woman shall be named in the title to such case; but nothing herein contained shall be construed so as to require a next friend of any Hindoo or Mahomedan married woman to be named in such title.

### VIII. Every such special case shall concisely state such facts and

Form of special case. documents as may be necessary to enable the Court to decide the question raised thereby; and upon the hearing of such case, the Court and the parties shall be at liberty to refer to the whole contents of such documents; and the Court shall be at liberty to draw from the facts and documents stated in any such special case any inference which the Court might have drawn therefrom if proved in a cause.

### IX. Every

## ACT NO. XVII. OF 1852.

### IX. Every such special case to which an infant or lunatic is a

Special case to state how guardian constituted, and the concurrence of married women. party by his guardian or special guardian, shall also state how such guardian or special guardian was constituted; and where any married woman having or claiming any interest distinct from her husband is a party to such case, it shall be stated therein that she concurs in such case in her own right.

### X. Every such special case shall be signed by Counsel for all parties,

Special case to be signed by Counsel and filed, and appearances to be entered for defendants. and shall be filed in the same manner as bills, plaints, or allegations are filed, and the defendants may appear thereto in the same manner as defendants appear to bills, plaints, or allegations, and no defendants shall be required to take an office copy of a special case, but an office copy thereof shall be taken by the plaintiff.

### XI. After a special case shall have been filed, and the defendants

Parties to be bound by statements after defendants have appeared to special case. shall have appeared thereto, all the parties to such special case shall be subject to the jurisdiction of the

Court in the same manner as if the plaintiff in the spe-

cial case had filed a bill, plaint, or allegation against the parties named as defendants thereto, and such defendants had appeared to such bill, plaint, or allegation, and upon the special case being filed and appearances entered thereto as aforesaid, all parties to such special case, shall, for the purposes of such special case, be bound by the statements therein.

### XII. So soon as all the defendants shall have appeared to the spe-

How cases to be set down for hearing. cial case, the same may be set down for hearing, and subpœnas to hear judgment or notices of hearing, issued and served according to the practice of the said Courts.

XIII. It

## ACT No. XVII. OF 1852.

**XIII.** It shall be lawful for the said Court upon the hearing of

Upon hearing Court to determine question and make declaration. any such special case as aforesaid, to determine the questions raised therein or any of them, and, by decree

or judgment, to declare its opinion thereon, and so far as the case shall admit of the same, upon the right involved therein, without proceeding to administer any relief consequent upon such declaration, and every such declaration of the said Court contained in any such decree or judgment shall have the same force and effect as such declaration would have had, and shall be binding to the same extent as such declaration would have been if contained in a decree or judgment made in a suit between the same parties instituted by bill, plaint, or allegation; provided always, that if upon the hearing of such special case as aforesaid, the Court shall be of opinion that the statements contained therein so far as the same affect the interest of any married woman, in-

Proviso that Court may refuse to decide. infant, or lunatic are not true, or that the questions raised thereby or any of them cannot properly be decided upon such case, the same may be at such hearing, with the consent of all parties thereto, and of the Court, amended, so as properly to raise such questions, or the said Court may refuse to decide the same.

**XIV.** Every executor, administrator, representative, trustee, or

Protection to be afforded to Trustees by declaration.

other person making any payment or doing any act in conformity with the declaration contained in any decree or judgment made or pronounced upon a special case,

shall in all respects be as fully and effectually protected and indemnified by such declaration, as if such payment had been made or act done under or in pursuance of the express order of the said Court made in a suit, action, or proceeding between the same parties instituted by bill, plaint, or allegation, save only as to any rights or claims of any person in respect of matters not determined by such declaration.

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### XV. Where any person shall be desirous to have a special case re-

The Court may suspend the acting upon declaration.

heard, or to appeal from the decision thereon, it shall

be lawful for the said Courts respectively, upon applica-

tion for that purpose, either at the time of the decree or judgment upon such special case being made, or at any time afterwards, and upon such conditions, if any, as the Court shall think fit, to order that the declaration contained in such decree shall not be acted upon for such time as the said Courts respectively shall think just.

### XVI. The filing of a special case, and the entering of appearances

Special case to be a *lis pendens*, and may be filed.

thereto by the persons named as defendants therein,

shall be taken to be a *lis pendens*.

### XVII. Any documents referred to in a special case, and any copies

Mode of identifying documents, and Court may order production.

thereof or extracts therefrom, identified by the signa-

ture of the solicitors for all parties, may be produced and read at the hearing of such case, without further proof; and it shall be lawful for the said Courts respectively, at any time after the filing of the special case, and the entering of appearances thereto by the persons named as defendants therein, to order any document, which may be admitted thereby to be in the possession of any party to such case, to be deposited and produced in such manner and for such purposes as the said Courts respectively shall think fit.

### XVIII. It shall be lawful for the said Courts upon the application

Court, on application of Executors or Administrators, may by order of course direct it to be referred to a Master to take an account of debts and liabilities.

of the executors, administrators or representatives in estate of any deceased person, by order to be made upon motion or petition of course, and to be in the form

or to the effect set forth in the Schedule hereto, with such variations as circumstances may require, to refer it to the Master of the said Courts respectively to take an account of the debts and liabilities

affecting

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affecting the estate of such deceased person, and to report thereon ; provided always, that no such order shall be made until the expiration of one year next after the death of such deceased person, or pending any proceedings to administer the estate of such person, and in case at any time after the making of such order, any decree or order for administering the estate of such deceased person shall be made, it shall be lawful for the said Courts respectively, by such decree or order, to stay or suspend the proceedings under such order of course on such terms and conditions, if any, as to the said Courts respectively shall seem just.

### XIX. It shall be lawful for any person who may have come in

Master's Report may be objected to by motion to the Court, of which notice shall be given. before the Master under any such order, and claimed to be a creditor upon the estate of the deceased person, or to have any demand upon such estate by reason of any

liability, and whose debt or claim may not have been wholly allowed by the said Master, to apply to the Court making such order by motion, of which notice shall be given within fourteen days after the filing of the Master's report, to have such claim allowed by such Court, either wholly or partially ; and it shall be lawful for the said executors, administrators or representatives in estate, and for any creditor of the deceased person who may be authorized by special leave of the said Court so to do, to apply to the said Court by motion, of which notice shall be given within the time aforesaid, to have any debt or claim allowed by the said Master disallowed by the said Court, either wholly or partially, and, at the expiration of fourteen days after the filing of the said report, the same shall, except as to any debt or claim as to which any such notice as aforesaid may have been given, be absolute, as if the same had been confirmed by order of the said Court.

### XX. Upon the hearing of any such motion as aforesaid, the said

Proceeding of the Court on such motion. Courts respectively may either dismiss such motion, or may order the debt or claim to which such motion relates

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relates to be allowed or disallowed, as the case may be, and either wholly or partially, or may direct further inquiry or further proceedings, by way of action or otherwise, touching such debt or claim, and after such inquiry or proceedings may, upon further motion, deal with such debt or claim as to the said Courts respectively shall seem just: provided always, that no new evidence shall be received by the said Courts upon the hearing of any such motion without special leave of the said Courts.

### XXI. In case any debt or any certain liability shall have been

If debts or certain liabilities allowed, and not paid or provided for, order may be made for payment or accounts.

allowed as aforesaid, and shall not within fourteen days after the report has become absolute as to such debt or liability, or after the same shall have been allowed by the said Court, be paid or provided for by appropriation to the satisfaction of the person who has established such liability, it shall be lawful for the said Courts respectively by order to be made in case of any debt remaining due, upon the application by motion or petition of the person to whom the debt remains due, and on notice to the executors, administrators, or representatives in estate, and in case of any certain liability remaining unprovided for by appropriation upon the application by motion or petition of the person by whom such liability has been established, or of the executors, administrators, or representatives in estate, and on notice by the party applying to the other of them, to order payment of the debts which may have been allowed and remain unpaid, and to provide for the certain liabilities which may have been allowed and remain unprovided for, in like manner as the same could or might have been paid or provided for in a suit for that purpose instituted by bill, or to refer it to the Master to take an account of the debts and certain liabilities allowed as aforesaid which remain unpaid or unprovided for, and also the usual accounts of the estate of the deceased person, with all usual and proper directions; and every such order shall have the same force and effect and shall be prosecuted and carried on in like manner as a decree in a creditor's suit instituted by bill.

### XXII. Nothing

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### XXII. Nothing in Sections XVIII. and XXI. of this Act contain-

Accounts to be taken according to usual practice of the Courts.

ed shall be construed so as to prevent any of Her Majesty's Courts from taking such accounts as aforesaid in any manner in which, according to the usual practice of such Courts, the same might have been taken if directed by decretal order made in a suit.

### XXIII. In case any contingent liability shall be allowed by the said report or by the said Courts respectively, it shall

Court, on application of executors or administrators, &c., may direct appropriation of money to answer contingent liability.

be lawful for the said Courts, by order, to be made upon the application of the executors, administrators, or representatives in estate, by motion or petition, on notice to the person who may have established such contingent liability, to order such sum of money, part, or proceeds of part, of the estate of the deceased person, as to the said Courts respectively shall seem just, to be set apart and appropriated for answering such contingent liability, and to give such directions as the said Courts shall think fit touching the payment of such sum of money into Courts, and the investment thereof, and the payment, application, or accumulation of the interest or dividends thereof in the mean time and until the same shall be required to answer such liability, and when such liability shall be ascertained or determined, to give such directions as to the payment of such sum out of Court as the said Courts respectively shall deem right : Provided always, that no order to be made as aforesaid shall in any manner bind the assets so appropriated as against the persons entitled to the estate of the deceased subject to the contingent liability ; and any person interested in such appropriated assets may apply to the Court touching the same, as he may be advised.

### XXIV. After the filing of such report as aforesaid, it shall be law-

Court may restrain proceedings against executors, administrators, &c.

ful for the said Courts respectively upon the application of the executors, administrators, or representatives in estate of the deceased, by order, to be made on motion, to restrain by in-

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junction any proceedings at law against them by any person having or claiming to have any demand upon the estate of the deceased by reason of any debt or liability other than the persons who may have established contingent liabilities under the said order for which no appropriation may have been made.

### XXV. In case no debt or liability, or no debt or liability other than

Protection to be afforded to executors, administrators, &c. a contingent liability, shall have been allowed as aforesaid, or in case any debt or liability other than as aforesaid shall have been allowed as aforesaid, then after the same shall have been paid or provided for by appropriation as aforesaid, all payments made by the executors, administrators, or representatives in estate, or any of them, on account of the estate of the deceased person, and all dispositions of such assets made by them or any of them on account of such estate, shall, as against all persons having or claiming to have any demand upon such estate by reason of any debt or liability, other than persons who may have established under the said order any contingent liability for which no such appropriation as aforesaid may have been made, be as good and effectual as if the same had been made under a decree of the said Courts respectively: Provided always, that nothing herein contained shall in any manner affect or prejudice the rights of any creditor or other person having any demand or claim upon the estate of the deceased against any assets so paid or disposed of, or against the persons to whom such payment or disposition may have been made, or against any assets appropriated under the provisions of this Act, and the appropriation of which, if made under a decree of the said Court, in a suit to which he was not a party, would not have been binding upon him.

### XXVI. All exceptions for scandal, impertinence, and insufficiency,

Exceptions for scandal, impertinence and insufficiency to be heard by the Court.

which according to the existing practice of the said Courts are referred to the Masters of the said Courts, shall not any longer be so referred, but shall be heard and

determined in the first instance by the said Courts, or any Judge thereof.

### XXVII. Notwithstanding

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### XXVII. Notwithstanding any rule or practice of the said Courts to

Power for Court, notwithstanding any rule, &c., to the contrary, to receive proof by affidavit.

the contrary, it shall be lawful for the said Courts respectively, at the hearing of any cause or of any further directions therein, to receive proof by affidavit or otherwise of all proper parties being before the Court, and of all such matters as are necessary to be proved for enabling the said Courts respectively to order payment of any moneys belonging to any married woman, and of all such other matters, not directly in issue in the cause, as in the opinion of the said Courts respectively may safely and properly be so proved.

### XXVIII. It shall be lawful for the said Courts respectively, from

Her Majesty's Courts to make General Rules and Orders from time to time.

time to time, to make, rescind, and alter General Rules and Orders for better enabling the opinion of the said Courts respectively to be obtained on special cases, and for effectuating the purposes of this Act as to the debts and liabilities of deceased persons, and for making any provisions which may be or be deemed necessary or proper as to amendment, revivor and supplemental matter or relief, and as to costs of any proceedings under or in pursuance of this Act, and for regulating the times and form and mode of procedure and practice of the said Courts in respect of the matters to which this Act relates, and every of them, and so far as may be found expedient for altering the course of proceeding hereinbefore prescribed in respect to such matters or any of them, and generally for assimilating the practice of the said Courts respectively to that of the High Court of Chancery in England.

### XXIX. All such General Rules and Orders shall be laid before the

Rules and Orders to be laid before the Governor General in Council, and to be binding from the time appointed or from the making, unless objected to.

Governor General of India in Council within one month after the making and issuing of the same, and every such Rule or Order shall, from and after the time in that behalf to be appointed by the said Courts respectively, and

if

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if no time shall be so appointed, then from and after the making thereof, be binding and obligatory on the said Courts respectively, and be of like force and effect as if the provisions therein contained had been expressly enacted by the Governor General of India in Council. Provided always, that if the said Governor General of India in Council shall, by any resolution passed at any time within six months after such Rules, Orders, and Regulations shall have been laid before him, resolve that the whole or any part of such Rules or Orders ought not to continue in force, in such case the whole or such part thereof as shall be so included in such resolution shall, from and after the time that such resolution is notified to the said Court, cease to be binding and obligatory on the said Court; provided that every such Rule or Order so made or expressed to be made in pursuance of this Act which shall not be laid before the Governor General of India in Council within the time by this Act limited for that purpose shall, from and after the expiration of such time, be absolutely void and of no effect. Provided always, that nothing in this clause contained shall be construed so that the said Rules or Orders should not be transmitted as heretofore to Her Majesty in Privy Council for approbation.

**XXX.** In the mean time and until any such General Rules or Orders shall be made, and in so far as the same, when made, shall not be applicable, the proceedings under this Act shall be governed and regulated by the provisions herein contained, so far as the same extend,

Until Rules or Orders are made, and if not applicable when made, practice to be according to this Act and practice of the Courts.

and in so far as the same do not extend shall, as well with respect to the persons who ought to be made parties to special cases as in every other respect, be governed and regulated by the Rules, Orders and Practice of the said Courts respectively, in suits instituted by bill, so far as the same can be applied thereto; and subject to such General Rules and Orders as aforesaid, the costs of all proceedings under this Act, shall be in the discretion of the said Courts respectively.

**XXXI.** All

## ACT NO. XVII. OF 1852.

**XXXI.** All decrees and orders made under the provisions of this Decrees and Orders to Act, shall be subject to rehearing, appeal, and review, be subject to appeal, &c. and may be discharged and varied in the same and the like manner as decrees and orders of the said Courts made in suits instituted by bill.

**XXXII.** The following words and expressions in this Act shall Interpretation of have the several meanings hereby assigned to them, Terms. unless there be something either in the subject or in the context repugnant to such construction :

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number :

Words importing the masculine gender only shall include females :

The expression "Her Majesty's Courts" or "Courts" shall mean and include Her Majesty's Supreme Courts of Judicature at Bengal, Madras and Bombay, and also the Court of Judicature of Prince of Wales' Island, Singapore and Malacca :

The word "Lunatic" shall include idiots and persons of unsound mind, and whether found such by inquisition or not :

The word "Guardian" shall mean father or testamentary guardian, or guardian appointed by any of Her Majesty's Courts, (not being a special guardian appointed under the Provisions of this Act.)

**XXXIII.** This Act shall commence and take effect from and after Commencement of the tenth day of April, One thousand eight hundred Act. and fifty-two.

*d*

**SCHEDULE**

ACT NO. XVII. OF 1852.

**SCHEDULE REFERRED TO BY THE FOREGOING ACT,**

(Date.)

In the matter of A. B. late of [REDACTED] in [REDACTED] Banker  
(or as the case may be), deceased.

Upon motion this day made into this Court by Mr. \_\_\_\_\_ of \_\_\_\_\_ Counsel  
for C. D. of \_\_\_\_\_ the executor (or administrator) of the abovenamed A. B. (or  
upon the humble petition of C. D. of \_\_\_\_\_ the executor (or administrator) of the  
said A. B. this day preferred unto the Supreme Court of Judicature at  
(for the reasons therein contained,) it is ordered ; that it be referred to the Master of this  
Court to take an account of the debts and liabilities affecting the (*personal or the real estate  
of the said A. B. or his moveable and immoveable estate as the case may be*), and to compute  
interest on such of the said debts and liabilities as carry interest, after the rate of interest  
the same respectively carry ; and the said Master is to cause an advertisement to be  
published in the \_\_\_\_\_ Gazette and such other public papers as he shall think fit for  
the persons claiming in respect of any such debts or liabilities, to come in before the said  
Master and prove their debts and claims, and he is to fix a peremptory day for that  
purpose ; and such of the creditors as shall not come in and prove their debts and  
claims by the time so to be limited, are to be excluded the benefit of this order ; and it  
is ordered, that the Master do distinguish debts from liabilities, and liabilities certain  
from liabilities contingent ; and it is ordered, that the said estate of the said A. B. be  
applied in payment and satisfaction of such debts and liabilities of the said A. B. in a  
due course of administration ; and for the better taking the said accounts and discovery  
of the matters aforesaid the parties are to produce before the Master, upon oath, all  
deeds, books, papers, and writings in their custody or power relating thereto, and are  
to be examined upon interrogatories or *viva voce* as the said Master shall direct ; and any  
of the parties are to be at liberty to apply to the Court as there shall be occasion.

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 12TH MARCH, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 12th of March 1852.

Act No. —— of 1852.

*An Act to amend the law respecting the Circuits of Judicial Commissioners in the Presidency of Bombay.*

Whereas it is expedient to amend the law respecting the Circuits of Judicial Commissioners in the Presidency of Bombay, It is hereby enacted as follows :

I. Section IX. of Regulation III. of 1830, and Sections II. III. IV. and V. of Regulation VIII. of 1833, are hereby repealed.

II. It shall be lawful for the Governor in Council of Bombay to issue a Commission in writing to any one of the Judges of the Court of Sudder Foujdaree Adawlut, thereby directing and empowering him to exercise and perform all or any of the powers and duties of a Judge on Circuit, or of a visiting or Judicial Commissioner, under the provisions of Chapter IV. Regulation XIII. of 1827, Sections X. XI. and XII. Regulation III. of 1830, Section V. Regulation VIII. of 1831, and Sections VI. and VII. Regulation VIII. of 1833, and all or any of the powers or duties now vested in, and exercised by the Court of Sudder Foujdaree Adawlut.

III. It shall be lawful for the said Governor in Council of Bombay in and by the said Commission, or by order in writing, to direct any Commissioner appointed as aforesaid to proceed on Circuit to any and such Zillahs in the said Presidency as shall be in the said Commission or order named, and to prescribe the period of his return to the Court of Sudder Foujdaree Adawlut.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first Meeting of the Legislative Council of India after the 12th day of June next.

FRED. JAS. HALLIDAY,  
*Secy. to the Govt. of India.*

*Home*                    1852                    *Dep.*

*Legislative.*

*A*

## **DRAFT ACT**

*To amend the law respecting the Circuits of Judicial Commissioners in the Presidency of Bombay.*

*Read in Council for the first time on the 12th of March 1852.*

*Ordered to be re-considered after the 12th day of June next.*

*Cons.*

*No.*

FORT WILLIAM,  
H O M E D E P A R T M E N T,  
LEGISLATIVE,  
THE 12TH MARCH 1852.

The following Draft of a proposed Act was read in Council for the first time on the 12th of March 1852.

ACT NO. —— OF 1852.

*An Act to confer certain powers on Patels and other heads of Villages in the Bombay Presidency.*

Whereas it is expedient to confer certain powers on Patels and other heads of Villages in the Bombay Presidency, It is hereby enacted as follows :

I. Clause 1, Section XLIX. of Regulation XII. of 1827, of the Bombay Code, is repealed.

II. From and after the passing of this Act, it shall be lawful for the Governor in Council of Bombay, by an order in writing, to authorize any Magistrate of a Zillah to issue a Commission to any person exercising the office of Patel, or charged with the administration of criminal justice within the limits of any Town, Village or Peth, in the said Presidency, empowering him to try any person charged with the Commission of any of the offences hereinafter mentioned, and the said Magistrate shall forthwith issue the said Commission in accordance with such order.

III. It shall be lawful for every such Patel or other Officer, who shall have received from the Magistrate such Commission as aforesaid, to try any person charged with the offence of theft, assault, or abuse, when the value of the property stolen, or the amount of damages sought to be recovered, does not exceed rupees , and also to try any person charged with resisting or refusing to obey any order of such Patel or other Officer as aforesaid. Provided always, that every charge of any such offence shall be preferred to such Patel or other Officer as aforesaid within eight days after the commission of such offence.

IV. It shall be lawful for every such Patel or other Officer, who shall have received from the Magistrate such Commission as aforesaid, to order any person, convicted by him of any such offence as aforesaid, to pay a fine not exceeding five rupees, or to be placed in the stocks for any period not exceeding six hours, or to be detained in the chowkey of the Town, Village or Peth, for any period not exceeding forty-eight hours.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first Meeting of the Legislative Council of India after the 12th day of June next.

FRED. JAS. HALLIDAY,  
Secy. to the Govt. of India.

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## DRAFT ACT

*To confer certain powers on Patels and other heads of Villages in the Bombay Presidency.*

*Read in Council for the first time on the 12th of March 1852.*

*Ordered to be re-considered after the 12th day of June next.*

*Consl.*

*No.*

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 12TH MARCH, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 12th of March 1852.

ACT NO. —— OF 1852.

*An Act to relieve the Court of Sudder Foujdaree Adawlut at Bombay from the superintendence of the Police in that Presidency.*

Whereas it is expedient to relieve the Court of Sudder Foujdaree Adawlut at Bombay from the superintendence of the Police in that Presidency, It is hereby enacted as follows :

I. So much of Clause 1., Section XXVII. of Regulation XIII. of 1827, of the Bombay Code, as enacts that the Court of Sudder Foujdaree Adawlut shall superintend the administration of Police, and so much of Clause 4, Section XXVII. of the same Regulation, as enacts that the Court of Sudder Foujdaree Adawlut shall furnish information to Government of the state of the Police in each Zillah, are hereby repealed.

II. From and after the passing of this Act, the superintendence of the Police in the said Presidency shall be vested in, and exercised by the Governor in Council of Bombay, and for the better superintendence thereof, it shall be lawful for the said Governor in Council to appoint such persons as he shall think fit to control and superintend the said Police, subject to the Orders of the said Governor in Council, and to vest in such persons such power and authority for the purposes aforesaid as to the said Governor in Council may seem proper.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first Meeting of the Legislative Council of India after the 12th day of June next.

FRED. JAS. HALLIDAY,  
*Secy. to the Govt. of India.*

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## DRAFT ACT

*To relieve the Court of Sudder Foujdarree Adawlut  
at Bombay from the superintendence of the  
Police in that Presidency.*

*Read in Council for the first time on the 12th  
of March 1852.*

*Ordered to be re-considered after the 12th day  
of June next.*

*Cons.*

*No.*

## ACT NO. XVIII. OF 1852.

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***Passed by the Governor General of India in Council on  
the 19th March 1852.***

***An Act to amend the Law relating to Pleaders in the Lower Provinces  
of the Presidency of Bengal.***

WHEREAS the laws in force relating to pleaders, practising in the Courts of the East India Company, in the Lower Provinces of the Presidency of Bengal, require amendment, It is enacted as follows:

I. Clause 4, Section V. Regulation XXVI. of 1814, and Sections VI., VII., VIII., X., XI., XIII., XIV., XV., Clause 3, Section IX. and Clause 6, Section XX. of Regulation XXVII. of 1814, and Section XVIII. Regulation X. of 1829, of the Bengal Code, and Sections X. and XI. of Act I. of 1846, so far as regards the said Courts and the pleaders therein, are hereby repealed.

II. Any pleader practising in the said Courts shall be liable to dismissal on proof of his conviction by a competent Court of a criminal offence, or on proof of a declaration or finding by a competent Court, in a suit or proceeding to which such pleader was a party, that he has knowingly committed a breach of trust, or for fraudulent or dishonest conduct in the discharge of his professional duty.

III. When

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III. When a competent Court has convicted a pleader of a criminal offence, or has declared or found, in a suit or proceeding to which such pleader was a party, that he has knowingly committed a breach of trust, the Court competent to dismiss such pleader may make an order for his dismissal, on the production of an authenticated copy of the judgment or decision containing such conviction, declaration, or finding, and on proof, to the satisfaction of the Court, that such judgment or decision has not been set aside or reversed, and that the pleader is the party to whom such conviction or decision relates.

IV. When any pleader is charged with fraudulent or dishonest conduct in the discharge of his professional duty, by any person or Court, the Court competent to make an order for his dismissal, shall serve, or cause to be served, upon such pleader a copy of the charge or charges brought against him, and also a notice of the day appointed by the said Court for the hearing of such charge or charges, and such copy and notice shall be served upon the said pleader at least twenty clear days before the day appointed for such hearing: and on the hearing of the said charge or charges the Court shall receive all such relevant evidence as shall be properly tendered by, or on behalf of the Court or party bringing the charge or charges, or by the said pleader, and shall proceed to adjudicate on the said charge or charges in a summary way, and shall record its decision, and the reasons on which the same is grounded. Provided always, that the Court which is competent to dismiss a pleader, shall also be competent to bring a charge or charges and proceed against him as aforesaid, and may also hear and adjudicate upon such charge or charges in manner hereinbefore mentioned. Provided also, that the evidence of witnesses on such hearing shall be taken and made upon oath, and every witness who shall give false evidence at such hearing shall be liable on conviction to punishment for perjury, in like manner as witnesses examined in civil or criminal trials.

V. The

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V. The power of dismissing pleaders practising in the Sudder Court of the said Provinces is vested in the Judges of that Court; the power of dismissing pleaders practising in the Courts of the Zillah Judges, or in Courts subordinate to them, in the said Provinces, is vested in the Zillah Judges, respectively.

VI. An appeal from the order of any Zillah Judge, for the dismissal of a pleader, may be made to the Sudder Dewanny Adawlut, according to the Rules in force for the admission of appeals.

VII. It shall not be lawful for any of the said Courts of the Lower Provinces of the said Presidency to impose any fine on any pleader practising in the said Courts, except such fine as may be imposed under the provisions of Act XXX. of 1841.



## ACT No. XIX. OF 1852.

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*Passed by the Governor General of India in Council on  
the 19th March 1852.*

*An Act for securing the Abkarry Revenue of Madras.*

FOR better securing the Abkarry Revenue of the Town and Suburbs of Madras, It is enacted as follows :

I. Regulation I. of 1813 of the Madras Code, and so much of Clause 159 of an Act of Parliament numbered Chapter LII. of the Statutes passed in the thirty-third year of King George the Third, as relates to the sale of Arrack or other spirituous liquors within the Town of Madras, and to the punishment of unlicensed traders in spirits or spirituous liquors within the said Town, are repealed.

II. The collection of the Revenue arising from the retail sale of spirituous or fermented liquors within the Town and Suburbs of Madras, shall be under the charge of the Collector of Madras, who shall perform the duties connected therewith under the control of the Board of Revenue.

III. The Collector may appoint Conicopolies, Pygusts, Jemadars, Peons and other Officers for collection of the said Revenue and prevention

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of smuggling; and the Officers so appointed, besides their ordinary respective designations, shall be styled "Abkarry Officers."

IV. Every person who shall sell by retail any spirituous or fermented liquors within the Town and Suburbs of Madras without a licence for that purpose, under the hand and seal of the Collector of Madras, shall be liable to a fine not exceeding Five Hundred Rupees for each sale, but this enactment shall not apply to wholesale dealers selling such small quantities of Beer, Wine, or Spirits, as may appear to the Collector to be intended only as samples.

V. A sale of European Spirits in a less quantity than two and a half gallons old Wine measure, (*i. e.*, one dozen quart bottles,) and of Arrack or Rum or any other Spirits manufactured to the Eastward of the Cape of Good Hope in a less quantity than one quart, and of English and Foreign Beer or Wine in a less quantity than six quart bottles, and of Toddy in a less quantity than one quart, shall be deemed a retail sale within the meaning of this Act.

VI. The Board of Revenue shall have authority at all times to regulate the form and provisions of licences to be granted under this Act, and to alter and add to the conditions thereof; and each licence shall distinctly specify the kind or kinds of liquor the holder is authorized to sell, the manner in which and source whence such liquor is to be supplied to him, the excise duty not exceeding three rupees and eight annas per gallon, which he shall pay upon it, whether it be provided by the Officers of Government or otherwise, or should a fee upon the licence be substituted for the said excise duty, the amount of such fee. The licence shall further specify the district or place, street or road, and house or shop in which the sale is to be carried on.

VII. The

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VII. The sale of Arrack or Rum, or other country Spirits, or of Toddy, in quantities larger than those specified for each article in Section V. of this Act, is prohibited; and every person who shall act in breach of this prohibition, shall be liable to the fine prescribed in Section XV. for the illicit possession of these articles; but this prohibition does not apply to the sale of spirituous or fermented liquors imported into Madras under passes from the Collector, or other Officer duly empowered in that behalf, and supplied by wholesale to licensed retail dealers, or to the sale of Rum under bond for exportation by sea, and covered by a certificate to that effect.

VIII. Every person taking out a licence for the retail sale of spirituous or fermented liquors or intoxicating drugs under this Act, shall execute a counterpart engagement in exact conformity with the tenor of such licence.

IX. The Collector may withhold or recall a licence, if any of the conditions upon which the licence is granted be not complied with, or, with the sanction of the Board of Revenue, for any other cause, giving fifteen days' notice of such withdrawal; and any person selling by retail any spirituous or fermented liquor within the Town and Suburbs of Madras, whilst such licence is withheld, or after it is recalled, shall be subject to all the penalties provided by this Act for the unlicensed sale of spirituous or fermented liquors.

X. No spirituous liquor manufactured Eastward of the Cape of Good Hope, shall be removed from the Sea Custom House to any Warehouse, Shop, or private dwelling, or from one Warehouse, Shop, or private dwelling to another, without the Permit of the Collector of Madras, which Permit must accompany all liquors so removed, but persons having paid the Sea Custom Duty shall be entitled to dispose of such

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such liquor by wholesale for exportation beyond the limits of Madras and its Suburbs, such export to be made under permits to be granted by the Collector of Madras at his discretion, and on proof to his satisfaction that the spirits are intended to be exported.

**XI.** All spirituous liquors manufactured by the European method of distillation shall, when imported into the Town and Suburbs of Madras by land, be placed under the charge of the Collector of Sea Customs, who will have them gauged and tested. The said liquors may be either kept in the custody of the Importer on his furnishing security for their exportation or sale, under the provisions of Section II., Act XXXII. of 1845, or in the joint custody of the Collector of Sea Customs and the Importer, or they may be deposited in the Sea Custom Warehouse on payment of the usual Warehouse rent. When kept in such joint custody, or deposited in such Warehouse as aforesaid, no security for their exportation or sale shall be required, and the amount and nature of the security required to be furnished when such liquors are kept in the custody of the Importer, shall be fixed by the Governor of Fort St. George in Council, who shall also determine the time to be allowed for their exportation.

**XII.** It shall not be lawful for the Justices to grant a licence to open or establish, or keep open any Lodging House, Boarding House, Eating House, Punch House, Coffee Room, Tavern, Hotel, or any other House of Public Entertainment within their jurisdiction, in which any spirituous or fermented liquor may be sold, to any person who has not taken out a licence for the retail sale of such liquor, and any such licence granted by the Justices shall become void whenever the licence for the retail of such liquor granted to such person, shall be withheld or recalled by the Collector under this Act. Provided always that, on the representation of the Superintendent of Police to the Collector, that any such house of public entertainment as aforesaid is kept as a disorderly house,

or

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or that the keeper thereof is, for any reason, or in consequence of misconduct, (such reason or misconduct to be specially assigned by the Superintendent,) unfit to receive or retain any such licence, then and in such case the said Collector shall forthwith revoke any licence already granted by him to such keeper of any such house of public entertainment.

XIII. The Collector, after demand made in writing, may levy any arrears of tax, duty, or fee, due on account of any licence granted under this Act, by distress and sale of the goods and chattels of the person from whom the same is due; provided that no such arrears shall be recoverable after the end of two years next after the same shall have become due, or next after an acknowledgment of the same in writing shall have been given by the person by whom the same is payable.

XIV. A breach of any of the conditions of a licence granted under this Act, shall, besides forfeiture of the licence, be punishable by a fine not exceeding Fifty Rupees, and such fine shall be recoverable from the licensed dealer, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

XV. Any person, not being a licensed dealer, having in his possession, and any person carrying within the Town and Suburbs of Madras any greater quantity of spirituous or fermented liquors, (excepting English and Foreign Beer, Wine, and Spirits,) than the quantity specified for each article in Section V., and not being protected by a Pass or Permit from the Collector, or other Officer duly empowered in that behalf, shall be liable to a fine not exceeding Five Hundred Rupees.

XVI. Beside the penalties above specified for the illicit sale, possession, and carrying of spirituous or fermented liquors, all such liquors

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found in the possession of any offender against this Act, shall be seized and confiscated, together with the Vessels, Packages, and Coverings in which such liquors are found, and the animals and conveyances used in carrying them shall also be liable to seizure and confiscation.

**XVII.** Any Abkarry Officer above the rank of Peon, may enter, inspect, and search, at any time, by day or by night, for any of the purposes contemplated in this Act, the house or shop in which any licensed retail dealer shall carry on the sale of spirituous or fermented liquor under this Act.

**XVIII.** Every person, holding a licence for the retail sale of spirituous or fermented liquors, shall keep such licence at the house or shop specified in the licence, and shall show the licence on the demand of any Abkarry Officer who shall desire to see the same ; and any licensed dealer, who shall refuse or be unable to produce his licence on the demand of any Abkarry Officer, shall be liable to a fine not exceeding Two Hundred Rupees.

**XIX.** Any Abkarry Officer may stop and detain any person having possession of or carrying in any Public Road, Street, Thoroughfare or place, or in any open shop, any spirituous or fermented liquors without a Pass, or otherwise liable to confiscation under this Act, and may seize the liquors, with the Vessels, Packages, and Coverings in which the liquors are found, and the animals and conveyances used in carrying them.

**XX.** If the Collector has good reason to believe, either from information given by any Abkarry Officer, or other person, to be taken down in writing, or from his own knowledge, or from the proceedings in any other case, that any spirituous or fermented liquor liable to confiscation under

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under this Act, is kept or concealed in any place, the Collector, by warrant under his hand, may empower any Abkarry Officer, above the rank of Jemadar of Peons, between sunrise and sunset, but always in the presence of a Constable or other Officer of the Peace, to enter into every such place where any such liquor is suspected to be kept or concealed, and to seize and carry away such liquor, and in case of resistance, to break open any door, and to force and remove any other obstacle to such entry, search, seizure or removal, as aforesaid, and to arrest and detain the owner or occupier of the premises, with all parties whom he suspects to be concerned in the unlawful keeping or concealing of such liquor whom he shall find on the premises. Provided that, where there is ground to suspect that such liquor is unlawfully concealed in any apartment of the women, in houses belonging to the classes whose women do not appear in public, the Officer charged with the execution of the Warrant, shall follow, as closely as may be, the rules for the seizure of property so concealed, adopted by the Supreme Court of Judicature at Fort St. George.

**XXI.** All Constables and other Ministerial Officers of the Peace, are required to aid the Abkarry Officers in the due execution of this Act, upon notice given, or request made by any such Abkarry Officer; and any Officer who, without lawful excuses, shall refuse or neglect to assist as aforesaid, on being required to do so, shall be liable to the penalty prescribed by Section XXIX. of this Act for Abkarry Officers conniving at the escape of a person arrested under this Act.

**XXII.** Whenever an Abkarry Officer, duly authorized under this Act, shall arrest any person, or shall seize any spirituous or fermented liquors, or shall enter any house or shop for the purpose of searching for such illicit liquors, he shall carry the person arrested, with the illicit liquors seized, with all convenient despatch, to the Collector, and shall,

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shall, within twenty-four hours thereafter, make a full report to the Collector of all the particulars. And the Collector, after such further inquiry as he may deem necessary, shall forthwith either release the person arrested, or send him in custody to the Superintendent of Police, or one of his Deputies.

**XXIII.** Every person who shall maliciously give false information against any person, for being engaged in the unlicensed sale of spirituous or fermented liquors, or for having in his possession or carrying, or in respect of there being in any house or shop, any spirituous or fermented liquors, in contravention of this Act, shall be liable to a fine not exceeding Five Hundred Rupees, or to imprisonment in the Common Gaol, for a period not exceeding six months, or to both.

**XXIV.** Every person who shall obstruct or molest any Abkarry Officer, or any person acting in aid of such Officer, in the due execution of this Act, shall be liable to a fine not exceeding Five Hundred Rupees, and such person shall be further liable, if any affray or breach of the peace shall happen in consequence of his resistance, on conviction of the same before a competent tribunal, to such punishment as is prescribed by Law for cases of affray and breach of the peace, in addition to the penalty above prescribed for resistance of process.

**XXV.** Any Abkarry Officer, who shall delay carrying to the Collector any person arrested, or any illicit liquors seized under this Act, or who shall neglect to report the particulars of an arrest, seizure, or search within twenty-four hours thereafter, shall be liable to a fine not exceeding Two Hundred Rupees.

**XXVI.** Any Abkarry Officer, who shall vexatiously and unnecessarily seize the goods or chattels of any person, on the pretence of seizing or

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or searching for illicit spirituous or fermented liquors, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess not required for the execution of his duty, shall be liable to a fine not exceeding Five Hundred Rupees.

**XXVII.** The provisions regarding Distilleries and Stills in Sections IV., V., VI., Regulation I. of 1820 of the Madras Code, and Act XXXII. of 1845, shall apply and be in force within the Town and Suburbs of Madras, except that the powers vested in the Criminal Judge by Section IV., Clause 5, and Section VI., Clause 9, Regulation I. of 1820, of the Madras Code, and in the Session Judge and Subordinate Judge of the Zillah, by Sections IV., V., Act XXXII. of 1845, shall be exercised within the limits of the jurisdiction of the Supreme Court by the Superintendent of Police.

**XXVIII.** It shall be competent to the Governor of Fort Saint George in Council, or to any Officer duly empowered by him in that behalf, to revise, from time to time, the forms of licences to be granted under Section IV., Regulation I. of 1820, of the Madras Code, for the establishment of Distilleries for manufacturing Rum, Arrack, or other Spirits by process of distillation similar to the European process, and to introduce into such forms of licences such provisions and stipulations as may seem to be advisable, anything in Section II., Act XXXII. of 1845, to the contrary notwithstanding.

**XXIX.** Any Officer employed in the Abkarry Department, who shall unlawfully release or connive at the escape of any person arrested under this Act, or connive at the sale of spirituous or fermented liquors without a licence, or by any licensed dealer contrary to the terms of such licence, or act in a manner inconsistent with his duty, for the purpose of enabling any person to do anything whereby any of the provisions of

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this Act may be evaded or broken, or the Abkarry Revenue be defrauded, shall be liable to a fine not exceeding Five Hundred Rupees.

**XXX.** Any Officer employed in the Abkarry Department, who shall ask or take any gratuity not authorized by any law or order of Government, or of the Board of Revenue, in consideration of doing or of omitting to do any act in his official capacity, and any person who shall offer a bribe to any such Officer, in order to induce such Officer to act in a manner inconsistent with his duty, shall be liable, for every such offence, to a fine not exceeding Five Hundred Rupees.

**XXXI.** When any goods or chattels shall be seized by an Abkarry Officer, as liable to confiscation under this Act, such seizure shall, upon information exhibited by order of the Collector, be heard and determined in a summary manner, by the Superintendent of Police or one of his Deputies, who shall cause the persons to whom such goods and chattels belong, to be summoned to appear, and upon their appearance or default, shall examine into the cause of the seizure thereof and give judgment; and, if such judgment shall be for confiscation of the goods or chattels seized, shall issue his warrant to the Collector for the sale or disposal thereof, according to such orders as the Collector may receive from the Board of Revenue.

**XXXII.** Whenever any goods or chattels shall be seized as aforesaid, and within one calendar month no person shall appear before the Collector to claim the same, the Superintendent of Police, or one of his Deputies, shall examine into the cause of the seizure, at a place and time, of which notice shall have been given by the Collector in the *Fort St. George Gazette*, and give judgment for the confiscation of such of the goods and chattels as, upon such examination, shall appear to him liable to forfeiture; and upon confiscation thereof, shall issue his warrant for the

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the disposal of them, as if the owner had been summoned to attend before the said Superintendent or one of his Deputies.

**XXXIII.** All fines leviable under this Act shall be adjudged by the Superintendent of Police, or one of his Deputies, any of whom, upon information exhibited before him by order of the Collector, shall, within three calendar months next after the act by which the fine was incurred and not afterwards, summon the parties accused, and upon their appearance or default, shall examine into the matter, and upon due proof made thereof, by the voluntary confession of the parties, or by the oath, or solemn affirmation, (in cases wherein a solemn affirmation is receivable by law instead of an oath,) of one or more credible witnesses, shall give judgment accordingly ; and, in default of payment of any fine to which an offender is adjudged, he shall be liable, by Warrant of the said Superintendent of Police or one of his Deputies, to imprisonment in the Common Gaol, for a period not exceeding six months, or until the fine be sooner paid.

**XXXIV.** Whenever any person shall be convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment in the Common Gaol, for a period not exceeding six months, and a like punishment of imprisonment not exceeding six months, shall be incurred in addition to the punishment which may be inflicted for a first offence upon every subsequent conviction after the second.

**XXXV.** One-half of all fines levied from persons convicted of the illicit possession, carrying, or sale, of spirituous or fermented liquors, and of the proceeds from the sale of liquors, vessels, packages, conveyances, stills, and other things confiscated under this Act, shall, upon adjudication

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tion of the case, be awarded in such proportion as the Superintendent of Police or one of his Deputies, adjudicating as aforesaid, may think proper, to the Officer or Officers who apprehended the offender, or seized the illicit liquors or other articles,—and the other half shall be given to the informer ; and if no fine be realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of Two Hundred Rupees, as may appear to them fit. Provided that the Board of Revenue may determine, by General Order, what class of Abkarry Officers shall receive rewards, and what classes shall have no title to share therein.

**XXXVI.** All fines levied under this Act, the disposal of which is not especially provided for, shall belong to Government ; but the Officer adjudicating the case may grant any portion thereof not exceeding one-half, as rewards to informers, or as compensation to parties injured by any proceedings under this Act.

**XXXVII.** No writ of *Certiorari* shall be issued at the suit of any party out of the Supreme Court of Judicature at Fort St. George, to supersede, stay, remove, or in anywise affect any information or judicial proceeding before the Superintendent of Police or any of his Deputies in pursuance of this Act ; and no judgment thereupon shall be quashed, except for error of law apparent on the face of the judgment.

**XXXVIII.** All actions and prosecutions to be instituted against the Collector or any Abkarry Officer, or any person acting in aid of any such Officer, for anything done in pursuance of this Act, shall be tried and determined in the Civil Courts established by the East India Company in the Zillah of Chingleput, notwithstanding that the cause of action, in respect of which such action is brought, arose, or the defendant therein reside, within the limits of the Town of Madras, and every such action shall be brought within three calendar months after the fact committed

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mitted and not afterwards, and notice in writing of such action, and of the cause thereof, shall be given to the defendant, one calendar month at least before the commencement of the action, and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if after action brought, a sufficient sum of money shall have been paid into Court with costs, by or on behalf of the defendant.

**XXXIX.** The Collector, in respect of the duties to be performed by him under this Act, shall have power to punish any contempt committed in his presence in open cutcherry by the imposition of a fine not exceeding Two Hundred Rupees, commutable, if not paid, to imprisonment in the Common Gaol for a period not exceeding one month. Provided that an appeal from any order passed under this Section shall lie to the Board of Revenue, and the decision of the Board thereon shall be final.

**XL.** The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction, that is to say, words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular, and words importing the masculine gender only, shall include females. The words “Collector of Madras,” shall mean the Officer who may at any time be charged with the superintendence and collection of the public revenue within the Town of Madras, although such Officer may not be officially designated “Collector of Madras.” The words “Town and Suburbs of Madras,” shall include the Town of Madras, the limits of the Supreme Court of Judicature at Madras, as declared and described by the 12th Section of Regulation II. of 1802, of the Madras Code, and the district comprised within eight miles beyond any part of those limits.



FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 27TH MARCH, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 27th March 1852:—

Act No. —— or 1852.

*An Act to amend the Mode of Procedure in Criminal Cases in the Courts of the East India Company.*

Whereas it is expedient to provide for the new trial of prisoners, when, by reason of the death, absence, or removal of the Judge, their trials remain unfinished; and whereas it is also expedient to enable Magistrates to summon accused parties before they proceed to take the evidence of the prosecutor and his witnesses, It is hereby enacted as follows :

I. When any criminal trial shall have been commenced and shall be pending and undecided before any Judge or Magistrate at the time of his death, removal, or departure from the station, it shall not be lawful for any other Judge or Magistrate to continue and carry on such trial, but the Judge or Magistrate competent to try the prisoner shall, as soon as conveniently may be, commence a new trial and re-examine all the witnesses.

II. When a Magistrate shall have examined any prosecutor respecting any charge brought by him against any person, and shall have summoned the witnesses on behalf of the prosecutor, he may also, in his discretion, summon the person or persons accused, or any one or more of them, in order that he or they may be confronted with the prosecutor and his witnesses, anything in Clause 6, Section II. Regulation III. of 1812, to the contrary notwithstanding.

III. Section V. Regulation VII. of 1811 is hereby repealed, and when any criminal charge has been preferred before a Magistrate or Assistant Magistrate against any person, and the prosecutor or informer shall fail to appear or shall abandon the charge against such person, or such person shall

shall be acquitted, and it shall appear to the Magistrate or Assistant Magistrate to whom the complaint or information has been made, or by whom the case has been tried, that there was no sufficient ground for making the charge, it shall be lawful for such Magistrate or Assistant Magistrate, at his discretion, to award such amends, not more than the sum of Rupees two hundred, to be paid by the prosecutor or informant to the party complained against for his loss of time, trouble, or expenses as to the Magistrate or Assistant Magistrate shall seem just, and in default of payment to sentence the prosecutor or informant to imprisonment with or without hard labour for any term not exceeding six calendar months, and every such order of amends or sentence of imprisonment pronounced by any Magistrate shall be final, and every order of amends or sentence of imprisonment pronounced by an Assistant Magistrate shall be subject to appeal to the Magistrate of the district only.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first Meeting of the Legislative Council of India, after the 27th day of June next.

FRED. JAS. HALLIDAY,  
*Secy. to the Govt. of India.*



Home

1852

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Legislative.

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## **DRAFT ACT**

*To amend the Mode of Procedure in Criminal Cases in the Courts of the East India Company.*

*Read in Council for the first time on the 27th of March 1852.*

*Ordered to be re-considered after the 27th day of June next.*

*Con&.*

*No.*

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,

THE 27TH MARCH 1852.

The following Draft of a proposed Act was read in Council for the first time on the 27th of March 1852:—

ACT NO. —— OF 1852.

*An Act to provide a permanent Sheriff for the Towns of Calcutta, Madras, and Bombay respectively, and to facilitate the Execution of the Process of the Supreme Courts of Judicature.*

Whereas it is expedient to provide a permanent Sheriff for the Towns of Calcutta, Madras, and Bombay respectively, and, on the occasion of the first vacancy in the Office of Coroner in the said Towns respectively, to provide for the performance of the duties of that Office by the Sheriffs respectively appointed under this Act; And whereas it is expedient to vest in the said Sheriff's powers of superintendence and control over the Gaols and Houses of Correction in the said Towns respectively;

And whereas by the Charters of the Supreme Courts of Judicature, the process of the said Courts, except in certain cases, is required to be addressed to and executed by the Sheriffs of Calcutta, Madras and Bombay respectively, which in the case of parties resident without the local limits of the jurisdiction of the said Courts is often attended with unnecessary expense and other inconvenience; And whereas it is desirable to make provision for the execution of the process of the said Supreme Courts without the local limits of their jurisdiction similar to that made for the execution of the process of the Courts of the East India Company within the local limits of the jurisdiction of the said Supreme Courts, It is hereby enacted as follows:

I. The persons who at the time of the passing of this Act shall be the Sheriffs of Calcutta, Madras, and Bombay, shall be and continue the Sheriffs of such Towns respectively, until other persons shall be duly appointed.

The Sheriffs now in Office to continue until new Sheriffs are appointed under this Act.

pointed and sworn into the said Offices respectively under the provisions of this Act.

II. On the first day of December next after the passing of this Act, each of the Appointmen<sup>t</sup> of Sheriffs during good behaviour. Supreme Courts of Judicature at Calcutta, Madras, and Bombay, shall respectively nominate in writing three persons as fit and proper to serve the office of Sheriff in the said Towns respectively, and shall transmit such nomination to the Governor or Governor in Council of the Presidencies or place in which such Courts are situate, who, with all convenient speed, shall respectively appoint one of the said three persons to serve the Office of Sheriff during good behaviour, from and after the 20th day of December next after such appointment. Provided always, that the persons to be nominated and appointed as aforesaid shall be respectively Barristers, or Solicitors, and also residents of the Town for which they are nominated or appointed as aforesaid, or the precincts thereof.

III. Every Sheriff, nominated and appointed Sheriff to take oaths and give security. as aforesaid, before he enters upon the said Office, shall take an oath faithfully to execute the duties thereof, and also the oath of allegiance, before the Governor or Governor in Council, or, in his absence, before any of the Secretaries to the Government, who are hereby respectively authorized to administer the said oaths; and shall also give security, by bond, to the East India Company, himself for Rupees Twenty-five thousand, with two or more sureties, jointly and severally, for another sum of Rupees Twenty-five thousand, for the due execution of his said Office.

IV. In case of the death, resignation, removal Provision in case of death, resignation, removal, or departure of Sheriffs. from Office, or departure from the Presidency of any Sheriff, then the Supreme Court shall immediately appoint some Officer of the Court or other person to act for the time as Sheriff, until some other person shall be duly nominated, appointed, and sworn, in manner aforesaid, to such Office, and notwithstanding such temporary appointment, another person shall, as soon as conveniently may be after such death, resignation, removal, or departure, be, in manner aforesaid, nominated, appointed, and sworn in as Sheriff, and shall continue in the said Office during good behaviour.

V. All the powers, rights, privileges and duties hitherto exercised, enjoyed, or performed by the Sheriffs of Calcutta, Madras, and Bombay respectively nominated and appointed for the period of one year under the respective Letters Patent of His late Majesty King George the Third, bearing date the 26th of March 1774, and the 26th of December 1800, and of His late Majesty King George

George the Fourth, bearing date the 8th of December 1823, and all other powers, rights, and privileges to the said Sheriffs given and reserved, and all other the duties to be by them performed and done, shall be transferred to and vested in, and duly exercised, performed, and done by the Sheriffs respectively appointed for the time as aforesaid under the fourth Section, and by the Sheriffs holding Office during good behaviour, to be respectively appointed under this Act.

**VI. Any Sheriff appointed under this Act**  
Sheriffs may be removed by Government for misconduct. may be removed from his said Office by the Governor or Governor in Council of the Presidency or place in which he is resident for misconduct in the discharge of the duties of his Office, or in the discharge of any of the duties imposed on him by this Act.

**VII. It shall not be lawful for any of the said Sheriffs to appoint a Deputy Sheriff, or to carry on or be engaged in any profession, trade, or business.** Provided always, that in case of the illness of any such Sheriff, he may, with the consent of the Governor or Governor in Council of the Presidency or place in which he is resident, appoint a Deputy to act for him during such illness.

**VIII. The monies from time to time in the hands of the said Sheriffs, shall be kept by them respectively in the Banks of Bengal, Madras, or Bombay respectively, or shall be otherwise kept and invested as the Governor or Governor in Council of each Presidency or place shall, from time to time, order; and the said order shall be published in the Government Gazette, and shall be full authority, protection, and indemnity, in all Courts whatsoever, for such keeping and investing.**

**IX. The said Sheriffs shall enter into books, to be kept by them respectively for that purpose, separate and distinct accounts of all such sums of money, securities for money, goods, effects and things as shall come to their hands as such Sheriffs respectively, or to the hands of any person by their order or for their use, and likewise of all payments made by them as such Sheriffs respectively, or by their order, or for their use, and specifying the dates of such receipts and payments respectively; and the said books shall be kept in the offices of the said Sheriffs respectively, and shall be open at office-hours for the inspection of all practitioners in the said Supreme Courts respectively, as may have occasion to inspect the same, paying such fee as may be from time to time fixed therefore by the Governor or Governor in Council of the Presidency or place.**

**X. The**

**X.** The said Sheriffs shall respectively once in every year, that is to say, on the first day of February, or on the first day on which the said Supreme Courts respectively shall be sitting after that day, exhibit and deliver in open Court a true Schedule showing the gross amount of all sums of money received or paid by them as such

Sheriffs respectively, and the balances during the preceding year, that is to say, during the period between the 1st day of January and the 31st day of December next before the day of delivering such Schedule, and a true list of all securities, goods, effects, and things as shall have come to their hands during the same period, and the said Schedules shall be filed of record in the said Courts, and shall, within fourteen days afterwards, be published by the said Sheriffs respectively in the Government Gazette, and a copy thereof shall be delivered to the Secretary of the Government of the Presidency or place.

**XI.** The Governor or Governor in Council of such Presidency or place shall from time to time appoint an Auditor or Auditors to examine the accounts of the said Sheriffs, at the time of the delivery of the said Schedules, and also at any other time when the said Governor or Governor in Council shall think fit.

**XII.** The Auditor or Auditors shall examine the Schedules and Accounts, and report to the said Governor or Governor in Council whether they contain a full and true account of everything which ought to be inserted therein, and whether the Books, by this Act directed to be kept by the said Sheriffs, are duly and regularly kept, and whether the moneys are duly kept and invested in such manner as is by law prescribed.

**XIII.** Every Auditor shall have power to summon as well the Sheriff as any other person or persons whose presence he may think necessary, to attend him from time to time; and to examine the said Sheriff or other party or parties if he shall think fit, on oath or solemn affirmation to be by him administered; and to call for all Books, Papers, and Documents which may appear to him to be necessary for the purposes of the said reference; and if the said Sheriff or other person or persons, when summoned, shall refuse, or without reasonable cause neglect to attend, or to produce any Books, Papers or Documents required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined, the Auditor or Auditors shall certify such neglect or refusal in writing to the Supreme Court of Judicature, and every person so refusing or neglecting

lecting shall thereupon be punishable, in like manner as if such refusal or neglect had been in contempt of the said Supreme Court.

**XIV.** The costs and expenses of preparing and Sheriff to pay publishing the said Schedules and costs of preparing copies thereof, shall be defrayed and publishing by the said Sheriffs respectively. Schedules.

**XV.** If, upon any such reference and examination, the Auditor or Auditors shall see reason to believe that the said Schedules do not contain a true and correct account of the matters therein, or which ought to be therein contained, he or they shall report accordingly to the Governor or Governor in Council, specifying the substance of the objections thereto.

**XVI.** The Governor or Governor in Council of such Presidency or place shall refer every such report as last aforesaid to the consideration of the Advocate General of the East India Company at such Presidency or place, who shall thereupon, if he shall think fit, proceed summarily, by petition, for an account against the said Sheriff or against the late Sheriff after his removal from Office, or against his personal representatives in case of his death, in respect of all or any of the moneys then or formerly in his possession, or under his care, as the said Advocate General shall think fit; and shall have power to exhibit interrogatories to the said Sheriff, or other person or persons defendants, who shall be bound to answer the same as fully as if the same had been contained in a Bill filed for the like purpose, and the Supreme Court shall have power, on any such petition filed, to examine orally the parties before it and all witnesses, or to refer the accounts to be taken in the ordinary way, and shall make such order, as to the costs of such reference and examination, as to the said Court shall seem just.

**XVII.** The said Courts shall have power on such petition to make such original and subsequent orders as upon a bill filed; and such orders shall have the same effect, and be executed in the same manner, as Decretal Orders.

**XVIII.** Nothing herein contained shall be construed so as to render the East India Company, or the Governor or Governor in Council of any Presidency or place, liable, or in any manner answerable or accountable, for any misconduct or breach of trust on the part of any such Sheriff, or for any moneys, securities, goods or effects which may have come to the hands of such

East India Company and Governments not to be liable for Sheriff, except only to the extent of moneys actually recovered by them under the bond of the Sheriff and his sureties.

such Sheriff, or for the loss or misapplication thereof, or any part thereof, except only to the extent of any moneys which may be actually recovered by the said East India Company from any such Sheriff or his sureties, under any such security bonds as hereinbefore in Section III. mentioned.

**XIX.** If any person taken in execution on any process shall escape out of the legal custody of the Sheriff, the Sheriff shall not be liable to an action of debt for such escape, but shall be liable only to an action upon the case for damages in consequence of such escape sustained by the person or persons at whose suit the prisoner was taken.

**XX.** On the occasion of the first vacancy in the Office of Coroner, in any of the said Towns, the Sheriff appointed under this Act for the said Town shall be appointed Coroner thereof, and shall exercise and perform all the powers and duties of the said Office, as well as the powers and duties of Sheriff, and the said Sheriff shall receive no salary for the performance of the duties of Coroner, but only such fees in respect of each inquest held by him as shall be in that behalf provided by the general rules and orders hereinafter mentioned.

**XXI.** If any Sheriff acting as Coroner under the provisions of this Act shall be a party to or interested in any action or suit in the Supreme Court of the Town of which he is Sheriff, all writs issued by the said Court in such action or suit shall be directed to some Officer of the said Court for execution, who shall execute the same for and instead of the said Sheriff.

**XXII.** It shall be lawful for the said Courts respectively from time to time to make, rescind, and alter general rules and orders regulating and specifying the exact amount of fees and allowances to be received by the said Sheriffs respectively, for and in respect of all or any of the processes or duties to be executed or done by them respectively under the provisions aforesaid, and all such general rules and orders shall be laid before the Governor General of India in Council within two months after the making and issuing the same, and every such rule or order shall, from and after the time in that behalf to be appointed by the said Courts respectively, and if no time shall be so appointed, then from and after the making thereof, be binding and obligatory on the said Courts respectively, and be of like force and effect as if the provisions therein contained had been expressly enacted by the Governor General of India in Council. Provided always, that every such rule or order which shall

not be laid before the Governor General of India in Council within the time limited by this Act for that purpose, shall, from and after the expiration of such time, be absolutely void and of no effect; and provided also, that if the Governor General of India in Council shall by any resolution, passed at any time within six months after such rules and orders shall have been laid before him, resolve that the whole or any part of such rules or orders ought not to continue in force, in such case the whole or such part thereof as shall be so included in such resolution shall, from and after such resolution, cease to be binding and obligatory on the said Courts.

XXIII. It shall be lawful for the said Sheriffs respectively, subject to such orders

Sheriffs to superintend Gaols and Houses of Correction, subject to orders of Government; power to Justices to visit and report thereon.

and the discipline and arrangement to be observed, therein, and generally to carry out the orders of Government with respect to the said Gaols and Houses of Correction, and the management thereof, and the said Sheriffs respectively, some time in the month of January in every year, shall present a report to the Governor or Governor in Council of the Presidency or place in which they are respectively resident, setting forth full particulars as to the number, accommodation, health, diet and discipline of the prisoners confined in the said Gaols and Houses of Correction during the previous year, and of the expenses and receipts incurred or received in the said Gaols and Houses of Correction, and of the rules orders and arrangements from time to time issued or made by them, or by the Keepers or Governors under them, with respect to the matters aforesaid, or any of them. Provided always, that it shall be lawful for any Secretary to the Government of the Presidency or place, and for any Justice of the Peace acting within and for any of the said Towns, to visit and inspect at all times the Gaols and Houses of Correction therein, and to report on the state and management thereof to the Governor or Governor in Council of the Presidency or place in which such Gaol or House of Correction is situated.

XXIV. It shall be lawful for the said Supreme

Supreme Courts to issue process to certain persons, and direct execution thereof.

and not resident within the local limits thereof, or against any property without such limits, to issue any process which the said Courts are or may be empowered to issue, and to address the same to such Court, Judge, Magistrate or Justice of the Peace as the said Supreme Courts shall think fit, and to direct the execution thereof in the manner hereinafter provided, and the same shall be executed accordingly, and upon the same being executed

executed and returned in the manner provided for by this Act, it shall be lawful for the said Courts respectively to proceed thereupon in like manner as if the same had been executed according to the practice of the Courts before the passing of this Act.

**XXV.** It shall be lawful for any of the said Supreme Courts, or for any Judge thereof, by a letter of request addressed to any Court, Judge, Magistrate or Justice of the Peace without the local limits of the said Supreme Courts, inclosing or accompanied by two duplicate originals of any such process as aforesaid, to request that such process may be executed within the limits of the jurisdiction of such Court, Judge, Magistrate or Justice of the Peace pursuant to the directions therein contained, and such letter and each of such duplicates shall be signed by one of the Judges of the said Supreme Courts, and sealed with the seal of the said Courts, and the production thereof purporting to be signed, and sealed as aforesaid shall be sufficient evidence of the issuing of such process, and that the requisition thereof shall and may be performed by any person for the time being constituting such Court, or discharging the duties of such Judge, Magistrate, or Justice of the Peace.

**XXVI.** Upon the production of such letter of request, together with such duplicates as aforesaid, such Court, Judge, Magistrate, or Justice of the Peace shall by endorsement upon one of such duplicates respectively under his hand, direct the said process to be executed pursuant to such directions as aforesaid by such person as such Court, Judge, Magistrate, or Justice of the Peace shall appoint to execute the same, and shall deliver one of such duplicates to such person so appointed to execute the same, and the same shall be executed accordingly, and if the same shall require to be executed beyond the limits of the jurisdiction of the Court, Judge, Magistrate, or Justice of the Peace to which or to whom such letter of request may be addressed, then such duplicate may be executed by any other Court, Judge, Magistrate, or Justice of the Peace having jurisdiction over the subject-matter of such process in like manner as the Court, Judge, Magistrate, or Justice of the Peace to which or to whom such letter of request may be addressed. Provided always that when such process shall be executed by any Court, Judge, Magistrate, or Justice of the Peace to which or to whom the letter of request aforesaid was not addressed, a Judge of such Court or such Judge, Magistrate, or Justice of the Peace so executing the same shall certify in writing under his hand the execution of such process, and shall forward such certificate to the said Court, Judge, Magistrate, or Justice of the Peace to which or to whom such letter of request was addressed, of which said certificate, purporting to be issued as aforesaid, the production alone shall be sufficient evidence.

**XXVII.** When

**XXVII.** When such process shall have been

Mofussil authorities to certify execution upon one of the duplicates, and deliver the same to the party.

such duplicates under his hand, certify the execution thereof, and shall deliver such duplicate so indorsed to the party or parties by whom the same was originally produced, or his or their agents, and the production of such duplicate so indorsed, and appearing to be so signed as aforesaid, shall be sufficient evidence of the execution of such process.

**XXVIII.** Upon the delivery of such duplicates of any Civil process as aforesaid

Date of delivery of process to be endorsed and process to be executed in like manner as if issued by the Mofussil authority.

near thereto as if the same had been issued from or by such Court, Judge, or Magistrate or Justice of the Peace at the time of the said delivery; and no distinction shall be made as to priority or otherwise between the execution of such process as aforesaid or any other process of or by the said Court, Judge, Magistrate, or Justice of the Peace; but every process, whether original or otherwise, shall, as between each other, be subject to the same rules touching the mode and order of execution as are now or may be from time to time established in respect of process originally issued by such Court, Judge, Magistrate, or Justice.

**XXIX.** Where any process of the said Su-

Order by virtue of which process issued may be registered in the Court to which the process is forwarded.

provisions of this Act, a copy of the judgment, decree, or order of the Supreme Court, by virtue of which such process issued, shall, if the said Court, Judge, Magistrate, or Justice of the Peace, shall so require, be recorded in the Court to which such process is forwarded to be executed, and a copy of such judgment, order or decree shall be forwarded, sealed with the seal of the said Supreme Court, for the purpose of such record. Provided always that such copy shall be signed by one of the Judges, and shall be under the seal of the said Supreme Court.

**XXX.** Persons wilfully neglecting to execute

Persons wilfully neglecting to execute process, or obstructing the execution thereof, shall be liable to be punished in like manner and by the like Courts, Judges, Magistrates, or Justices of the Peace, as if such process had been issued

originally by such Courts, Judges, Magistrates, or Justices of the Peace. Provided that nothing herein contained shall deprive the said Supreme Courts respectively of their power to punish such persons for a contempt, in case they shall not be otherwise punished.

**XXXI.** All persons and property seized or de-

Persons and property seized to be dealt with as if seized by the Mofussil authorities, and all monies levied after deducting expenses to be forwarded to the Sheriff.

tained under any process executed by virtue of this Act shall be dealt with in like manner as if such persons or property had been seized or detained under the like process issued by any such Court, Judge, Magistrate, or Justice of the Peace as aforesaid; and all monies levied by virtue of any

such process (after deducting therefrom all such fees, charges and expenses for executing the same, as shall be from time to time appointed in that behalf by the Sudder Dewanny Adawlut, and sanctioned by the Governor or Governor in Council of the Presidency or place), shall be paid or caused to be paid by such Court, Judge, Magistrate, or Justice of the Peace to the Sheriff of the Court from which such process shall have issued.

**XXXII.** In the case of persons seized or de-

Parties arrested in the Mofussil may be imprisoned there.

tained by virtue of any process executed under authority of this Act, it shall be lawful for the said Courts, Judges, Magistrates, or

Justices of the Peace to cause such persons to be imprisoned in the nearest convenient Gaol, and there detained until, by order of the Supreme Court or any Judge thereof, such Court, Judge, Magistrate, or Justice of the Peace shall be required to release the party from custody, or to deliver him to a Bailiff of the Sheriff for removal in custody to Her Majesty's Gaol of the Court from which such process shall have issued.

**XXXIII.** No action or other proceeding shall be had or maintained against any

Indemnity to the Mofussil authorities executing process.

person or persons constituting such Court, or any such Judge, Magistrate, or Justice of the

Peace, or any person or persons acting under his or their orders, for or in respect of any act, matter, or thing done or omitted to be done in the execution or service of any such process, and it shall be lawful for the said Supreme Courts respectively, upon application thereto, to stay any such action or proceeding commenced in the said Courts, and to order the party commencing or prosecuting the same to pay the costs thereof, as between solicitor and client. Provided always that nothing herein contained shall be construed to protect any person who shall wilfully act in excess of the authority reposed in him.

**XXXIV.** Any copy of any judgment, decree

Processes to be forwarded by dawk or private hand.

or order of the said Supreme Courts respectively, which is by this Act required to be recorded, and any process of the said Courts to be executed

executed by any other Court, or by any Judge, Magistrate, or Justice of the Peace under the provisions of this Act, and any proceeding by any such Court, Judge, Magistrate, or Justice of the Peace thereupon may be transmitted by such Supreme Courts to such other Court, Judge, Magistrate, or Justice of the Peace, or by such other Court, Judge, Magistrate, or Justice of the Peace to the said Supreme Courts, by dawk or by any private hand.

XXXV. The said Supreme Courts respectively shall from time to time frame such forms of letters of request, and of any process of the said Supreme Courts, which is to be addressed and executed under the provisions of this Act, as may be necessary to give full effect to the provisions hereinbefore contained.

XXXVI. The word "process" in this Act shall extend to and include all Interpretation criminal and civil process of the Clause. said Supreme Courts, which require to be executed without the local limits of the jurisdiction of the said Courts, and any notice of any proceedings instituted or to be instituted in the said Courts, or of any step to be taken or application made in or in respect of such proceedings; and the word "lands" shall extend to and include any immoveable property; and any word denoting the singular number or masculine gender shall extend to and include more persons, matters, or things than one, and females as well as males.

Ordered that the Draft now read be published for general information.

Ordered that the said Draft be re-considered at the first Meeting of the Legislative Council of India after the 27th day of June next.

FRED. JAS. HALLIDAY,  
*Secy. to the Govt. of India.*

Home

1852

Dep.

Legislative.

A

## **DRAFT ACT**

*To provide a permanent Sheriff for the Towns of Calcutta, Madras, and Bombay respectively, and to facilitate the Execution of the Process of the Supreme Courts of Judicature.*

*Read in Council for the first time on the 27th of March 1852.*

*Ordered to be re-considered after the 27th day of June next.*

*Cons.*

*No.*

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 27TH MARCH, 1852.

The following Extract from the Proceedings of the Governor General of India in Council in the Legislative Branch of the Home Department, under date the 27th March 1852, is published for general information :—

Read a second time the Draft of a proposed Act, dated the 5th December 1851, and published in the *Supplement to the Calcutta Gazette* of the 10th December 1851, to facilitate the enforcement of judgments in places beyond the jurisdiction of the Courts pronouncing the same.

*Resolution.* The Governor General in Council resolves, that the following revised Draft on the subject be published for general information :—

ACT No. — or 1852.

*An Act to facilitate the Enforcement of Judgments in Places beyond the Jurisdiction of the Courts pronouncing the same.*

I. Every party who shall obtain a judgment in any Court of Her Majesty, or of the East India Company, in any Presidency or place, or in any Extra-Regulation Province or Territory, possessed by the East India Company before the 22nd day of April 1834, and cannot enforce or obtain execution of the same within the jurisdiction of such Court, and is desirous of enforcing, or obtaining execution of the same in any other Presidency or place, or in any other Province or Territory as aforesaid, shall apply to the Court which has pronounced such judgment for a duplicate thereof, and also for a certificate that the judgment or some part thereof remains unsatisfied, and if necessary, for a translation of the said judgment into the English language, and on the receipt of the said duplicate judgment and certificate and translation (if any), the party shall present the same to the Court within the jurisdiction of which he is desirous of enforcing or obtaining execution of such judgment, and the last-mentioned Court shall thereupon cause the said duplicate judgment and certificate and translation (if any) to be filed as of record, and from and

and after the filing thereof, the said judgment shall be of the same force and effect as a judgment of the last-mentioned Court, and shall be duly enforced or executed, according to the tenor thereof, by such last-mentioned Court.

II. Every such certificate and duplicate judgment and translation (if any) as aforesaid, shall be signed by a Judge of the Court which passed or pronounced such judgment, and shall also be sealed with the seal of such Court, if such Court has a seal.

III. When any of the said Courts shall enforce or execute the judgment of any other Court as aforesaid, the Court so enforcing or executing the same shall proceed so to do according to its own laws and mode of procedure in like cases, and the last-mentioned Court shall take cognizance of, and punish all wrongful acts or irregularities done or committed in enforcing and executing such judgment, and all persons disobeying or obstructing the enforcement or execution of any such judgment, shall be punishable by such last-mentioned Court, in the same manner as if the said judgment had been pronounced by such Court.

IV. Each of the said Courts shall recognize, enforce, and execute any judgment passed by any Court in any Extra-Regulation Province or Territory acquired by the East India Company, after the said 22nd day of April 1834, or by any Court established by authority of the Governor General of India in Council in the Territory of any foreign Prince or State, and shall, upon the receipt of any such duplicate judgment and certificate and translation (if any) as aforesaid, file the same as of record, and from and after the filing thereof, the said judgment shall be of the same force and effect as a judgment of the last-mentioned Court, and shall be duly enforced or executed by such last-mentioned Court, according to the tenor thereof, in such manner as in Section III. provided.

V. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction; that is to say, the word "judgment" shall include any final decree, order, or judgment in any Civil suit or proceeding, and the words "Extra-Regulation Province or Territory" shall include any Province or Territory to which the Regulations and Acts of the Supreme Government of India have not been extended.

Ordered, that the Draft now read be re-considered at the first Meeting of the Legislative Council of India, after the 27th day of June next.

FRED. JAS. HALLIDAY,  
Secy. to the Govt. of India.



*Home*

1852

*Dep.*

*Legislative.*

*A*

## **DRAFT ACT**

*To facilitate the Enforcement of Judgments in  
Places beyond the Jurisdiction of the Courts pro-  
nouncing the same.*

*Read in Council for the second time on the 27th  
of March 1852.*

*Ordered to be re-considered after the 27th day  
of June next.*

*Cons.*

*No.*

## ACT NO. XX. OF 1852.

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***Passed by the Governor General of India in Council, on  
the 27th March 1852.***

***An Act to facilitate the Acquisition of Land needed for Public  
Purposes in the Presidency of Fort St. George.***

**I.** **W**HENEVER it shall appear to the Governor of Fort St. George in Council that any land is needed for a public purpose, he shall make a declaration to that effect in a Minute of Council, and such declaration shall be conclusive evidence that the purpose for which the land is needed is a public purpose.

**II.** When a declaration has been made by the Governor in Council that any land is needed for a public purpose, if there shall be any hindrance to the immediate acquisition of such land by purchase from the parties interested therein, it shall be competent to the Governor in Council to order the land to be taken possession of on the part of Government, and applied to the purpose for which it is needed, leaving claims for compensation for the land to be determined as hereinafter provided.

*a*

**III.** When

## ACT No. XX. OF 1852.

**III.** When such order is passed by the Governor in Council it shall be sent to the Collector of the District in which the land lies, or to such other Officer as the Governor in Council shall think fit to appoint to carry it into execution ; and the Collector, or other Officer so appointed, shall cause the land ordered to be taken to be marked out and measured, and possession to be taken thereof on behalf of Government, and the land shall thenceforward be vested absolutely in the Government, free and clear of all other estates, rights, titles, remainders, reversions, limitations, trusts and interests, and also of all mortgages, liens, or incumbrances whatsoever, of and in the land so taken as aforesaid ; and any suit which may be instituted to recover the land so taken by Government, in any Court of Judicature, shall be dismissed with costs. Provided always, that nothing herein contained shall affect the liability of the party who may receive the value of any land so taken by Government, without having a good title to the same.

**IV.** As soon as the land has been marked out, the Collector, or other Officer appointed as aforesaid, shall cause the order in Council to be affixed in some conspicuous place upon the land, and published by proclamation in the neighbouring bazars and villages, with a citation, calling on all parties interested in the land to appear before him in person, or by authorized agents, on a certain day, not less than fifteen days after the date of citation, and to state the nature of their interests in the land required, and the amount and particulars of their claims to compensation for the same.

**V.** It shall be competent to the said Collector, or other Officer appointed as aforesaid, to admit any such claims that appear to him to be valid, and if he and all the parties interested in the land agree as to the compensation to be allowed to them respectively, to pass an award for the same.

**VI.** If

## ACT No. XX. OF 1852.

**VI.** If the said Collector or Officer shall judge any of the claims preferred to be inadmissible, and the parties interested in the land or any of them shall nevertheless persist in such claims, or if the said Collector or Officer, admitting the interests claimed, shall object to the compensation demanded for the same as excessive, the points in dispute shall be referred to the determination of arbitrators, to be appointed in the manner hereinafter provided.

**VII.** Two persons shall be chosen to act as arbitrators on the part of Government, by the Collector or other Officer duly appointed as aforesaid, and the party or parties claiming to be interested in the land taken shall be called upon by the said Collector or Officer to elect, within fifteen days, two persons to act as arbitrators on his or their part. If there be several parties interested as aforesaid, and they cannot agree within the required period in the election of persons to act as arbitrators on their behalf, then and in that case, each of them shall nominate one person, whom he may desire to act on his behalf, and the said Collector or Officer shall choose by lot, out of the persons so nominated by the parties aforesaid, or by any of them, two persons to act as arbitrators on behalf of the parties interested in the land. If only two persons shall be so nominated by the parties interested in the land, they shall be the arbitrators on behalf of such parties, whether the whole of the parties interested as aforesaid may or may not have been concerned in their nomination. If only one person shall be so nominated, then only one of the persons selected to act as arbitrators on the part of Government shall be employed on the duty. If the parties interested in the land shall refuse or neglect, or if by reason of minority, lunacy or absence from the Presidency, they shall be unable to make any nomination within the required period, then the said Collector or Officer shall and may select two impartial persons to arbitrate the matter between Government and the parties interested in the land.

**VIII. Before**

## ACT No. XX. OF 1852.

**VIII.** Before the arbitrators proceed to arbitrate, they shall be required by the said Collector or Officer to appoint an umpire for the decision of any points whereon they may differ in opinion, when the voices on each side shall be equal. If the arbitrators cannot agree in the selection of an umpire, the said Collector or Officer shall be authorized to choose some person to act as such.

**IX.** In cases wherein the arbitrators may differ in opinion, if the voices on each side shall be equal, the decision of the umpire on the point of difference shall be conclusive : in all other cases, the opinion of the majority of arbitrators shall determine the award.

**X.** The arbitrators shall hold their inquiry under the general superintendence of the Collector or other Officer appointed as aforesaid, who shall be competent to exercise towards them such powers and authority, for the purpose of securing their attendance, and the due completion of their award, as the Courts of Judicature may legally exercise towards persons summoned as witnesses before them, for the purpose of compelling such witnesses to attend and give evidence. It shall further be competent to the Officer presiding, in the event of any unnecessary delay on the part of arbitrators in determining any question referred to them, to call upon them to make their award within a specified time, and in default thereof, to refer such question to the umpire for his decision.

**XI.** The said Collector, or other Officer appointed as aforesaid, shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process. He shall also cause the proper forms of affirmation to be executed by any witnesses whom the arbitrators may desire to examine upon affirmation, or he may empower the

## ACT No. XX. OF 1852.

the arbitrators to administer or cause the execution of such affirmation, if the witnesses cannot with convenience attend before him. Any witness who shall refuse or omit to appear when duly summoned by such Collector or Officer, or who shall appear but shall refuse to execute the affirmation to be administered as aforesaid, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the Law by a witness refusing to appear or give evidence before a Court of Justice. Any person giving intentionally and deliberately a false deposition, under a solemn affirmation in any case referred to arbitration as above, and upon a point material to the issue thereof, shall be held to be guilty of perjury, and shall be liable to the penalties prescribed for that offence by Law; and any person causing or procuring another person to commit the offence of perjury, as above described, shall be guilty of subornation of perjury, and punishable according to Law.

**XII.** It shall also be competent to the Collector, or other Officer appointed as aforesaid, to demand from the parties interested in the land so taken as aforesaid, the production of any accounts, title-deeds, or other documents which may be required by the arbitrators for the purposes of their inquiry, and in the event of such accounts, title-deeds, or documents being withheld, and the fact of their existence being proved by information given upon solemn affirmation, to order the seizure of such accounts, title-deeds, and documents wherever they may have been deposited, in the manner prescribed by Section IX. Regulation IX. of 1822 of the Madras Code, and to exercise for that purpose the powers thereby vested in Collectors.

**XIII.** The arbitrators shall take into consideration the statements of the parties interested in the said land, and the objections of the Collector or other Officer aforesaid on behalf of Government, and after examining the evidence offered on both sides, and making any further

## ACT NO. XX. OF 1852.

inquiry that may appear to them necessary, shall pass their award allowing or disallowing the interests claimed, and determining the total amount of compensation to be given for the interests allowed, the mode in which it is to be given, and, if to be given to more than one party, the shares of the total compensation which each party shall be entitled to receive.

**XIV.** The award of the arbitrators, or of the umpire if he shall be called upon to make an award, shall be binding and conclusive both upon the Government and the parties interested in the land, as respects the gross amount of the compensation to be paid by Government, unless the award shall be set aside by the Civil Court of the zillah upon a charge of corruption against the arbitrators or the umpire, as the case may be, brought by either party, and proved after due investigation, to the satisfaction of such Court; in which case the matter shall be referred for the determination of a second set of arbitrators, to be chosen in the same manner as the first, and their decision, whatever it may be, shall be final. No petition to set aside an award made under this Act shall be received by the Civil Court of the zillah, unless it be presented within thirty days from the date of the award complained of; and the said petition shall be presented on stampt paper of the value used for miscellaneous petitions, and shall be accompanied with a copy of the award objected to. The award of the arbitrators or umpire shall also be binding as respects the shares to be paid to the several parties interested in the land, unless upon a suit instituted within thirty days from the date of the award, in a competent Court, by any of the parties concerned, to alter the apportionment made by such award, an injunction shall be issued to suspend the payment until a decree is passed in the case.

**XV.** If any question arises as to the previous possession of or title to any land taken by Government under this Act, or if the parties or any

## ACT No. XX. OF 1852.

any of them interested in the land are minors, lunatics, or absent as aforesaid, and are not represented by their guardian, committee, attorney, or other person authorized in that behalf, or if there exist other grounds which, in the judgment of the arbitrators, render it improper to make immediate payment of the compensation awarded by them, or of any part thereof, to any of the parties interested in such land, the said arbitrators shall certify the same to the said Collector or Officer, under whose directions they may act, and in such case, or if for any such reason or any such ground as aforesaid, the said Collector or other Officer shall deem immediate payment improper, then the amount of compensation payable shall be held in deposit by Government, until the parties interested in the said land or some of them shall obtain an order of a competent Court for the payment of the same and interest (if any) to them. All sums held in deposit as aforesaid, exceeding in amount the sum of Five Hundred Rupees, shall be invested in Government Securities.

**XVI.** On the close of the inquiry, the arbitrators or umpire shall deliver to the Collector, or other Officer appointed as aforesaid, a full and complete report and award upon the questions submitted to their arbitration, under their respective signatures, specifying the amount of compensation to be granted, and, (except where under Section XV. it may appear proper to suspend payment,) the parties to whom it is to be made, and the proportions to be paid to each respectively, with a solemn declaration subscribed thereto, that the award so given is to the best of their judgment true and impartial, and according to the evidence adduced before them, and they shall at the same time deposit with the said Collector or Officer the whole of their proceedings.

**XVII.** All suits and proceedings instituted against Government to obtain compensation for land taken as aforesaid, other than such petitions to set aside awards as aforesaid, shall be dismissed with costs, but nothing herein

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herein contained shall affect the rights of any party to recover the value of any land taken by Government from any person who may have received the same without having any title thereto.

**XVIII.** In the case of land declared by a Minute of the Governor in Council to be needed for a public purpose being acquired by the Government by bargain with and purchase from the parties apparently interested therein, the Collector, or Officer appointed by Government to receive possession of the same, shall cause proclamation to be made in the manner prescribed in the fourth Section of this Act, of the transfer of the land to Government by the said parties, and requiring all other persons who may claim any right, title, or interest in such land, to prefer their claims within one calendar month after such proclamation made; and any claims that may be preferred shall be dealt with under Section V. or under Section VI. and the following Sections of this Act. Provided always, that if no claim shall be made within one calendar month after such proclamation as aforesaid, the said land shall vest absolutely in the Government, free and clear of all other estates, rights, titles, remainders, reversions, limitations, trusts, interests, mortgages, liens or incumbrances whatsoever, of and in the said land so purchased; and any suit to recover the land so purchased by Government, or to obtain from Government compensation for the loss thereof, which may be preferred in any Court of Judicature, shall be dismissed with costs. But nothing herein contained shall affect the liability of the party who may receive the value of any land purchased by Government without having a good title to the same.

**XIX.** In cases referred to arbitration, under the provisions of this Act, any necessary expense which may attend the inquiry of the arbitration, whether for the diet of witnesses or otherwise, shall be paid by Government.

**XX.** The

## ACT NO. XX. OF 1852.

**XX.** The provisions of Act XLII. of 1850 shall be applicable and in force within the Madras Presidency ; and the said Act shall be construed as if instead of the words and figures “ Regulation I. of 1824 of the Bengal Code,” or “ the said Regulation” therein mentioned, the number and title of this Act had been therein inserted.

**XXI.** The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction, (that is to say,) —

Words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular.

Words importing the masculine gender only shall include females.

The word “ land” shall extend to tenements and hereditaments of any tenure, and all houses, buildings, walls, or appurtenances thereupon, as well as land.

The expression “ party or parties interested in the land” shall be understood to mean all parties interested in the land either for life or for years, or in remainder, reversion, or succession, and all trustees, *cestui que* trusts, mortgagees, incumbrancers, leaseholders, or tenants, not being tenants by the month or at will of such land.



## ACT No. XXI. OF 1852.

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*Passed by the Governor General of India in Council, on  
the 16th April 1852.*

*An Act to authorize the Employment of Uncovenanted Deputy Collectors in the Presidency of Bombay.*

WHEREAS the exigencies of the public Service require the employment of Uncovenanted Deputy Collectors in the Revenue Department within the Presidency of Bombay, It is hereby enacted as follows :

I. The Governor of Bombay in Council may appoint, in any Zillah or District within the said Presidency, one or more Uncovenanted Deputy Collectors, with the powers hereinafter mentioned.

II. Every person appointed a Deputy Collector under this Act shall, before entering upon the duties of his office, make and subscribe a solemn declaration to the same effect as the oath prescribed in Appendix A. annexed to Regulation XVI. of 1827 of the Bombay Code,—the words “the East India Company” being inserted in such declaration, instead of the words “the United Company of Merchants of England trading to the East Indies,” and the words “United Company” in the said oath contained, and such declaration shall be made and subscribed either

## ACT No. XXI. OF 1852.

either before Her Majesty's Supreme Court of Judicature for Bombay, the Court of Sudder Dewanny Adawlut of Bombay, any Judge on circuit in the Zillah in which such Deputy Collector may be appointed, the Judge, Collector, or Magistrate of that Zillah, or such other person as may be deputed or authorized by any order of the said Governor in Council to take or receive such declaration.

**III.** Deputy Collectors appointed under this Act shall discharge such of the duties and exercise such of the powers of the Covenanted Assistants in the Revenue Department, as shall be prescribed from time to time in each case by the Governor of Bombay in Council, and shall be subject to the same control and authority in all respects as such assistants respectively.

**IV.** Section XI. of Regulation XVI. of 1827, of the Bombay Code, shall be applicable to Deputy Collectors appointed under this Act, who shall hold their offices subject to the provisions of the said section.

**V.** No Deputy Collector appointed under this Act shall be dismissed from office without the sanction of the Governor of Bombay in Council. Whenever there is reason to believe that a Deputy Collector is disqualified, by neglect, incapacity, corruption, or other misbehaviour, for continuance in office, a report shall be made by his superior in the Revenue Department for the consideration and orders of the Governor of Bombay in Council, who shall be competent to suspend such Deputy Collector, and order a further inquiry into his conduct, or direct his immediate dismissal, as may appear just and proper.

## ACT No. XXII. OF 1852.

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*Passed by the Governor General of India in Council, on  
the 30th April 1852.*

*To avoid doubts as to the validity of certain decisions in summary  
suits for arrears of rent, and of certain sales of Putnee Talooks  
and other saleable tenures.*

WHEREAS by Regulation VIII. of 1831, of the Bengal Code, the hearing and decision of summary suits or claims relating to arrears or exactions of rents were transferred from the Judges of the Zillah or City Courts to the Collectors of the several Districts ; and whereas by Regulation VII. of 1832, of the Bengal Code, the superintendence of the sales of Putnee Talooks and other saleable tenures of the class specified in Clause 1, Section VIII. Regulation VIII. of 1819, of the same Code, was transferred to the Collector or Deputy Collector of Land Revenue, or Head Assistant to the Collector or Deputy Collector, subject to an appeal as therein provided ; and whereas by Act VIII. of 1835 the conduct of sales of Talooks or other saleable tenures in execution of summary decrees for rent, in conformity with Regulation VII. of 1799 of the same Code, was transferred to the Collectors of Land Revenue ; and whereas doubts have been entertained in some instances as to the District within which such summary suits or claims should have been decided, and such sales made, by reason that the jurisdiction of the several Zillah and City Courts

**ACT No. XXII. OF 1852.**

is not conterminous with the jurisdiction of the several Collectors of Land Revenue, It is enacted as follows :

**I.** No order or decision already made in any such summary suit, and no such sale as aforesaid, already made, which has not been questioned before a Court of competent judicature before the passing of this Act, on the ground of having been decided or made by a Collector of Land Revenue, his deputy or duly authorized assistant, having no jurisdiction therein, shall be liable to be annulled or disputed on that ground.

## ACT No. XXIII. OF 1852.

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*Passed by the Governor General of India in Council, on  
the 7th May 1852. •*

*To authorize and empower the Governors in Council of the respective  
Presidencies of Madras and Bombay to mitigate or discharge fines,  
amerciaments, &c., imposed by the Supreme Courts, or any other  
Courts of Justice at Madras and Bombay respectively.*

WHEREAS the Supreme Court of Judicature at Madras now hath certain power and authority to mitigate and discharge fines, amerciaments, forfeitures, and sums of money ordered, adjudged, set, imposed, or awarded by the said Supreme Court of Judicature at Madras upon, or against, any person or persons whomsoever for or by reason of any offences, misdemeanors, defaults, contempts, neglects, or forfeitures whatsoever; And whereas the Supreme Court of Judicature at Bombay hath certain power and authority to mitigate and discharge fines, amerciaments, forfeitures, and sums of money ordered, charged, adjudged, set, imposed, or awarded by the said Supreme Court of Judicature at Bombay upon, or against, any person or persons whomsoever for or by reason of any offences, misdemeanors, defaults, contempts, neglects, or forfeitures whatsoever; And whereas it is expedient that such respective powers and

ACT No. XXIII. OF 1852.

and authorities should be exercised by the respective Governors in Council of the Presidencies of Madras and Bombay respectively, It is hereby enacted as follows :

**I.** The powers and authorities respectively exercised by the said Supreme Courts at Madras and Bombay, or by any other Courts of Justice at Madras and Bombay respectively, to mitigate and discharge fines, amerciaments, forfeitures and sums of money ordered, charged, adjudged, set, imposed or awarded by such Supreme Courts, or by any other Court of Justice at Madras and Bombay aforesaid upon, or against, any person or persons whomsoever, for or by reason of any offences, misdemeanors, defaults, contempts, neglects, or forfeitures whatsoever, shall henceforth respectively cease and determine.

**II.** It shall be lawful for the Governor in Council of the Presidency of Fort St. George at Madras to mitigate or discharge all fines, amerciaments, forfeitures, and sums of money which may have been or may hereafter be ordered, adjudged, set, imposed, or awarded by the said Supreme Court of Judicature at Fort St. George at Madras aforesaid, or by any other Court of Justice, or other person or persons there, having lawful authority to order, charge, adjudge, set, impose, or award fines, amerciaments, ransoms, forfeitures, penalties, or sums of money, for or by reason of any offences, misdemeanors, defaults, contempts, neglects or forfeitures whatsoever, as the Court of Exchequer in England, or the Chancellor or Barons thereof, may or can lawfully do in England. And the said Governor in Council may, by any order, cause a share or proportion of any fine imposed on any person or persons, for any delinquency or misdemeanor prosecuted to judgment, to be paid over to the prosecutor towards defraying his expenses occasioned thereby, as such Governor in Council shall think fit and expedient.

**III.** It

## ACT No. XXIII. OF 1852.

**III.** It shall be lawful for the Governor in Council of the Presidency of Bombay to mitigate or discharge all fines, amerciaments, forfeitures, and sums of money, which may have been or may hereafter be ordered, adjudged, set, imposed, or awarded by the said Supreme Court of Judicature at Bombay, or by any other Court of Justice, or other person or persons there, having lawful authority to order, charge, adjudge, set, impose, or award fines, amerciaments, ransoms, forfeitures, penalties or sums of money for or by reason of any offences, misdemeanors, defaults, contempts, neglects, or forfeitures whatsoever, as the Court of Exchequer in England or the Chancellor or Barons thereof, may or can lawfully do in England: And the said last-mentioned Governor in Council may, by any order, cause a share or proportion of any fine imposed on any person or persons for any delinquency or misdemeanor prosecuted to judgment, to be paid over to the prosecutor towards defraying his expenses occasioned thereby, as such Governor in Council shall think fit and expedient.



FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 14TH MAY, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 14th May 1852.

ACT NO. — OF 1852.

*An Act to repeal Clause 17, Section XVI., Regulation XX. 1817 of the Bengal Code.*

Whereas it is not expedient that Darogahs or other Police Officers should be entitled to a commission on the value of property stolen or plundered which they may recover, It is hereby enacted as follows :

I. Clause 17, Section XVI., Regulation XX. 1817 of the Bengal Code is repealed.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first meeting of the Legislative Council of India, after the 14th day of July next.

FRED. JAS. HALLIDAY,  
*Secy. to the Govt. of India.*

*Home*

1852

*Dep.*

*Legislative.*

*A*

## **DRAFT ACT**

*To repeal Clause 17, Section XVI, Regulation  
XX. 1817 of the Bengal Code.*

*Read in Council for the first time on the 14th of  
May 1852.*

*Ordered to be re-considered after the 14th day  
of July next.*

*Cons.*

*No.*

## ACT No. XXIV. OF 1852.

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***Passed by the Governor General of India in Council, on  
the 14th May, 1852.***

***For amending and explaining Act XIV., 1839, and for the better  
prevention of Crimping.***

**FOR** the amending and better understanding of Act XIV., 1839, and for the better prevention of the offence of crimping as hereinafter defined, It is declared and enacted as follows :

**I.** Any person who by force or fraud, unlawfully detains in any place or decoys to any place any Native of India, with intent to force or prevail upon him to enter into any service, or contract for service to be performed out of the Territories under the Government of the East India Company into which he was not minded to enter, without such force or fraud, or who, by means of false imprisonment, intoxication, intimidation, force or fraud, causes any Native of India to enter into any such service or contract for service, or who attempts, by force or fraud or by any false promise, pretence or representation, to cause any Native of India to depart either by land or water from the Territories under the Government of the East India Company, is a crimp, and guilty of crimping, within the meaning of this Act.

**II.** The departure of any person out of the Territories under the Government of the East India Company, by land or water, is Emigration from the said Territories within the meaning of Act XIV., 1839, and of this Act.

**III. After**

ACT No. XXIV. OF 1852.

**III.** After the passing of this Act no person shall be liable to the penalties of Act XIV. 1839, for making, in good faith, any contract with any Native of India, for labor to be performed in any Foreign Settlement on the mainland of India, or for knowingly abetting or aiding any Native of India in emigrating from the said Territories to any such Foreign Settlement. Provided that if any person shall make any contract with any Native of India for service or labor to be performed by such Native out of the Territories under the Government of the East India Company, or cause any Native of India to depart from the Territories under the Government of the East India Company, or knowingly aid or abet such Native of India in emigrating from the said Territories to any such Foreign Settlement with intent that such Native shall afterwards depart from India, such person shall be deemed to be a crimp and guilty of crimping within the meaning of this Act, and proof of the subsequent departure of such Native from India, from any place out of the Territories under the Government of the East India Company within the period of six months from the time of the departure of such Native from the said Territories under the Government of the East India Company, shall be *prima facie* evidence of such intent.

**IV.** Every crimp within the meaning of this Act is liable to be imprisoned for a term not exceeding six calendar months, and to pay a fine not exceeding five hundred rupees.

**V.** Every person who shall, by means of intoxication, false imprisonment, or intimidation, or by means of any false promise, pretence or representation, force or decoy any Native of India out of the Territories under the Government of the East India Company, or fraudulently cause any such Native to depart from the said Territories shall be liable to be imprisoned for a term not exceeding three years.

**VI.** In every case in which under this Act imprisonment may be awarded for any offence it shall be lawful for the Court, who may award such

## ACT NO. XXIV. OF 1852.

such imprisonment, to sentence the offender to be kept to hard labor during the whole or such period or periods of such imprisonment as to such Court shall seem meet.

**VII.** In every case in which an offender shall be liable to be imprisoned under Section **II.**, Act **XIV.**, 1839, such offender shall be liable to be imprisoned, or imprisoned and kept to hard labor for a term not exceeding three months for every Native contracted with, provided that such imprisonment shall not in any case exceed six months for any one offence.

**VIII.** In every case in which any person shall commit an offence under Section **II.**, Act **XIV.**, 1839, as explained and amended by this Act, after having been previously convicted, either before or after the passing of this Act, of an offence under that Section, such person shall be liable, upon conviction before a criminal Court of competent jurisdiction, to be imprisoned, or imprisoned and kept to hard labor for any period not exceeding one year, and in every indictment, information or other proceeding for such an offence committed after such previous conviction, it shall be sufficient, after describing the offence, to state that the offender was at a certain time and place convicted of an offence under Section **II.**, Act **XIV.**, 1839, without otherwise describing such previous offence or conviction, and a certificate of the previous conviction, purporting to be signed by the Officer having the custody of such previous conviction, or by the deputy or legally authorized Assistant of such Officer, shall, with proof of the identity of the person of the offender, be sufficient *prima facie* evidence of the first conviction, without proof of the signature or official character of the person appearing to have signed such certificate.

**IX.** The term “Magistrate” in Act **XIV.**, 1839 shall extend to Joint Magistrates and persons lawfully exercising the powers of a Magistrate.



## ACT NO. XXV. OF 1852.

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*Passed by the Governor General of India in Council, on  
the 14th May, 1852.*

*An Act for the execution of decrees made in appeal by Her Majesty in Council, or by the Courts of Sudder Dewanny Adawlut and of the Zillah and City Judges in the Presidency of Fort William in Bengal.*

WHEREAS it is expedient to amend the law relating to the execution of decrees made and passed in appeal by Her Majesty in Council, and by the Courts of Sudder Dewanny Adawlut, and of the Zillah and City Judges in the Presidency of Fort William in Bengal, It is hereby enacted as follows :

I. Every decree or order in appeal of Her Majesty in Council, or of any Court of Sudder Dewanny Adawlut, or of any Zillah or City Judge which shall be made after the passing of this Act, and also every such decree or order in appeal which has been made before the passing of this Act, and for the execution or enforcement whereof no petition has been presented, shall be enforced and executed by the Court which made the first decree or order appealed from, in the manner and according to the rules and laws applicable to the execution and enforcement of original decrees or orders made by such last-mentioned Court.

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II. Any party desirous of enforcing or obtaining execution of any such decree or order made in appeal as aforesaid, shall present a petition for that purpose to the Court which made the first decree or order appealed from, and the said petition shall be accompanied by a certified copy of the decree or order made in appeal, and sought to be enforced or executed.

III. An appeal shall lie from any decree or order made by such last-mentioned Court relating to the enforcement or execution of any such decree or order made in appeal as aforesaid in the same manner and subject to the same laws, rules and regulations as an appeal from an order or decree made upon a petition for the enforcement or execution of the decree or order first appealed from, would have been.

IV. Nothing herein contained shall be construed so as to prevent any Court of Sudder Dewanny Adawlut from enforcing or obtaining execution of a decree or order made or passed by Her Majesty in Council, if Her Majesty in Council shall think fit to decree or order the said Court of Sudder Dewanny Adawlut to enforce or execute the same.

V. The provisions of Section VIII., Act XXV., 1837 of the Bengal Code shall extend to proceedings under this Act.

VI. This Act shall apply only to the Presidency of Fort William in Bengal.

FORT WILLIAM,

HOME DEPARTMENT,

LEGISLATIVE,

THE 21ST MAY, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 21st of May 1852.

ACT NO. — OF 1852.

*An Act for the prevention of gambling in the Settlement of Prince of Wales' Island, Singapore and Malacca.*

Whereas the vice of gambling has much increased, and many gaming houses have been established within the several stations of the Settlement of Prince of Wales' Island, Singapore and Malacca, for suppression of which the laws now in force are inadequate, It is enacted as follows :

I. Every person who within the Settlement of Prince of Wales' Island, Singapore and Malacca, shall keep a common gaming house, or any room or other place used for the purposes of a common gaming house, or who shall have the care or management thereof, or shall in any manner conduct the business of any such common gaming house, either as banker, shroofer, croupier or otherwise, shall, on conviction before the Court of Quarter Session of the said Settlement, be punishable by imprisonment, with or without hard labor, for any term not exceeding six calendar months, or, in the discretion of the Court, to a fine not exceeding five hundred dollars, and in default of payment of such fine where a fine shall be imposed, the offender may be imprisoned by the said Court, with or without hard labor, either in the House of Correction or Her Majesty's Jail for any period not exceeding six calendar months.

II. In default of other evidence proving any house, room or place to be used as a common gaming

gaming house, it shall be enough, in support of the allegation in any charge, that any house, room or place is a common gaming house, to prove that such house, room or place is kept or used for playing therein at cards, dice, poh, or any unlawful game, and that a bank is kept there by any one or more of the players exclusively of the others, or that the chances of any game played therein are not alike favorable to all the players, including among the players, the banker or other person by whom the game is managed, or against whom the other players stake, play or bet ; and every such house, room or place shall be deemed a common gaming house.

III. Every person who shall be found in any such common gaming house playing or gaming with cards, dice, counters, poh, money, or other instruments of gaming, or who shall be found there present during such playing or gaming, or for the purpose of gaming, or who shall be found gaming with cards, dice, counters, poh, money or other instruments of gaming in any public street, place or thoroughfare within the said Settlement, whether playing for any money, wager, stake or otherwise, shall be punishable on conviction before the Court of Quarter Session of the said Settlement, by imprisonment for any term not exceeding three calendar months, or, in the discretion of the said Court, by fine not exceeding two hundred dollars, and in default of payment of such fine may be imprisoned by the said Court, with or without hard labor, either in the house of correction or in Her Majesty's Jail for any period not exceeding three calendar months.

IV. Any Justice of the Peace of the said Settlement, upon information laid before him on oath that there is reason to suspect any house, room or place within the said Settlement to be used as a common gaming house, may, by his warrant, give authority to any peace officer of the said Settlement to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room or other place, and to take into custody all persons whom he finds therein whether or not then actually gaming ; and to seize all instruments of gaming, and all monies and securities for money found therein ; and to search all parts of the house, room or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and to search also the persons of those whom he so takes into custody, and to seize and take possession of all cards, dice, pohs, counters and other instruments

instruments of gaming which he shall find upon such search.

V. When any cards, dice, pohs, gaming table or cloth, board or other instruments of gaming are found in any house, room or place, of which information has been given on oath to a Justice of the Peace that it is suspected of being used as a common gaming house, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room or place is used as a common gaming house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the peace officer, or any of his assistants.

VI. On conviction of any person for keeping, or being present for the purpose of gaming, in any such common gaming house, all the instruments of gaming found therein shall be destroyed by order of the Court of Quarter Session, which shall also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all monies seized therein, to be forfeited; or, in its discretion may order any part thereof to be returned to the parties appearing to have been severally therunto entitled.

VII. Any officer of police may arrest without warrant all persons whom he may see in the act of gaming in any public street, place or thoroughfare in the said Settlement, and seize all cards, dice, pohs, counters and instruments of gaming which he finds in their possession, which, on conviction of any of the parties, shall be forfeited.

VIII. It shall not be necessary in order to convict any person of keeping a common gaming house, or of being concerned in the management of any common gaming house, to prove that any person found playing at any game was playing for any money, wager or stake.

IX. Any person who shall have been concerned in any unlawful gaming, and who shall be examined as a witness before the said Court of Quarter Session on the trial of any person or persons for a breach of any of the provisions of this Act, and who upon such examination shall make true and faithful discovery, to the best of his or her knowledge, of all things as to which he or she shall be so examined, and who shall thereupon

upon receive from the said Court a certificate in writing to that effect, shall be freed from all prosecutions under this Act for any thing done before that time in respect of such unlawful gaming.

**X.** Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill played at licensed hotels, taverns or eating houses, or places of public resort within the said Settlement.

**XI.** Every person who shall, by any fraud, or unlawful device or ill practice in playing at or with cards, dice, or other game, or in bearing a part of the stakes, wagers or adventures, or in betting on the sides or hands of them that do play, or in wagering on the event of any game, sport, pastime or exercise, win from any other person, for himself, or any other or others, any sum of money or valuable thing, shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence, with intent to cheat or defraud such person of the same, and, being convicted thereof, shall be punished accordingly.

**XII.** No conviction or other proceeding before the said Court of Quarter Session under this Act shall be quashed, reversed or set aside, or adjudged void or insufficient for want of form, or be removed by Certiorari into Her Majesty's Supreme Court.

**XIII.** The Court of Quarter Session shall on conviction have power to direct any portion, not exceeding one-fourth of any fine which shall be levied under the provisions of this Act, or any part of the monies or proceeds of articles seized in any common gaming house and ordered to be forfeited, to be paid to an informer, and the balance of such fines and monies, or the whole thereof as the case may be, shall be applied to the use of the municipal fund of the station within the said Settlement at which the same shall have been taken.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first Meeting of the Legislative Council of India after the 21st day of August next.

**FRED. JAS. HALLIDAY,**  
*Secy. to the Govt. of India.*



Home

1852

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## **DRAFT ACT**

*For the prevention of gambling in the Settlement  
of Prince of Wales' Island, Singapore and  
Malacca.*

*Read in Council for the first time on the 21st of  
May 1852.*

*Ordered to be re-considered after the 21st day  
of August next.*

*Cons.*

*No.*

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,

THE 25TH JUNE, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 25th of June 1852 :

ACT No. —— OF 1852.

*An Act for providing in the Presidencies of Fort St. George and Bombay for the punishment of Males of tender age for Petty Thefts.*

Whereas, it is expedient, until adequate improvements in Prison Discipline can be effected at the Presidencies of Fort St. George and Bombay, to substitute corporal punishment for imprisonment, in case of offences committed by males of tender age, who should be punished rather in the way of school discipline than of ordinary criminal justice, It is enacted as follows :

I. Every Magistrate in the Presidency of Fort St. George; every Magistrate and First Assistant Magistrate in the Presidency of Bombay ; and every Deputy or Assistant Magistrate in either of the said Presidencies, to whom the Governor in Council of the Presidency in which he is such Deputy or Assistant Magistrate may grant authority, shall, on conviction of theft of property not exceeding in value rupees fifty, if the person convicted be a male, and shall appear to him, by inspection or other evidence, to be of such tender years as to require punishment rather in the way of school discipline than of ordinary criminal justice, sentence such person to corporal punishment with a light ratan, not exceeding ten stripes, to be inflicted on the bare palm of the hand, or through a light garment on the back.

II. In cases of sentences to corporal punishment as aforesaid, no other punishment shall be superadded, and the punishment shall be inflicted on all occasions in the presence of the officer who awards it.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be reconsidered at the first Meeting of the Legislative Council of India, after the 25th day of September 1852.

FRED. JAS. HALLIDAY,  
Secy. to the Govt. of India.

V. The powers vested in Sessions Judges by Section XXXVII., Act VII. of 1843, and the Regulations therein referred to, to review, alter and overrule the proceedings, orders and judgments passed by Sudder Ameens in criminal cases, shall extend to the proceedings, orders and judgments passed by the District Moonsiffs under this Act.

VI. It shall be competent to the Governor in Council, when he shall empower one or more of the District Moonsiffs in any Zillah to exercise criminal jurisdiction under this Act, to order at the same time that the provisions of Clauses 1, 2, 3 and 4, Section IV., Regulation IV. of 1821, and of Act XXXIII. of 1837, shall cease to have any operation in that Zillah, or in the parts of it in which such criminal jurisdiction is to be exercised by a District Moonsiff.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first meeting of the Legislative Council of India after the 25th day of September 1852.

FRED. JAS. HALLIDAY,  
*Secy. to the Govt. of India.*



*Home*

1852

*Dept.*

*Legislative.*

A

## **DRAFT ACT**

*For conferring Criminal Jurisdiction upon District  
Munsiffs in the Presidency of Madras.*

*Read in Council for the first time on the 25th of  
June 1852.*

*Ordered to be re-considered after the 25th day  
of September 1852.*

*Cons.*

*No.*

## ACT No. XXVII. OF 1852.

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*Passed by the Governor General of India in Council, on  
the 2nd July, 1852..*

*An Act to confer certain powers on Patels and other Heads of Villages  
in the Bombay Presidency.*

WHEREAS it is expedient to confer certain powers on Patels and other heads of Villages in the Bombay Presidency, It is hereby enacted as follows :

I. From and after the passing of this Act, it shall be lawful for the Governor in Council of Bombay, by an order in writing, to authorize any Magistrate of a Zillah to issue a Commission to any person exercising the office of Patel, or charged with the administration of criminal justice within the limits of any Town, Village or Peth, in the said Presidency, empowering him to try any person charged with any of the offences hereinafter mentioned, and the said Magistrate shall forthwith issue the said Commission in accordance with such order.

II. It shall be lawful for every such Patel or other Officer, who shall have received from the Magistrate such Commission as aforesaid, to try any person charged with the offence of theft, assault, or abuse, when the

ACT No. XXVII. OF 1852.

the value of the property stolen, or the amount of damages alleged to have been sustained, does not exceed rupees five, and also to try any person charged with the offence of resisting or refusing to obey any order of such Patel or other Officer as aforesaid. Provided always, that every charge of any such offence shall be preferred to such Patel or other Officer as aforesaid within eight days after the commission of such offence.

**III.** It shall be lawful for every such Patel or other Officer, who shall have received from the Magistrate such Commission as aforesaid, to order any person, convicted by him of any such offence as aforesaid, to pay a fine not exceeding five rupees, or to be placed in the stocks for any period not exceeding six hours, or to be detained in the chowkey of the Town, Village, or Peth, for any period not exceeding forty-eight hours.

**IV.** Such conviction shall be a bar to any other proceedings for the same offence.

# ACT No. XXVIII. OF 1852.

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***Passed by the Governor General of India in Council, on  
the 2nd July, 1852.***

***An Act to relieve the Court of Sudder Foujdaree Adawlut at Bombay  
from the superintendence of the Police in that Presidency.***

**W**HEREAS it is expedient to relieve the Court of Sudder Foujdaree Adawlut at Bombay from the superintendence of the Police in that Presidency, It is hereby enacted as follows :

**I.** So much of Clause 1, Section XXVII. of Regulation XIII. of 1827, of the Bombay Code, as enacts that the Court of Sudder Foujdaree Adawlut shall superintend the administration of Police, and so much of Clause 4, Section XXVII. of the same Regulation as enacts that the Court of Sudder Foujdaree Adawlut shall furnish information to Government of the state of the Police in each Zillah, are hereby repealed.

**II.** From and after the passing of this Act, the superintendence of the Police in the said Presidency shall be vested in, and exercised by, the Governor in Council of Bombay, and for the better superintendence thereof, it shall be lawful for the said Governor in Council to appoint such persons as he shall think fit to control and superintend the said Police, subject to the Orders of the said Governor in Council, and to vest in such persons such power and authority for the purposes aforesaid, as to the said Governor in Council may seem proper.



## ACT No. XXIX. OF 1852.

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***Passed by the Governor General of India in Council, on  
the 2nd July, 1852.***

***An Act to amend the Law respecting the Circuits of Judicial Commissioners in the Presidency of Bombay.***

**W**HEREAS it is expedient to amend the law respecting the Circuits of Judicial Commissioners in the Presidency of Bombay, It is hereby enacted as follows :

**I.** Section **IX.** of Regulation **III.** of 1830, and Sections **II.** **III.** **IV.** and **V.** of Regulation **VIII.** of 1833, of the **Bombay Code**, are hereby repealed.

**II.** It shall be lawful for the Governor in Council of Bombay to issue a Commission in writing to any one of the Judges of the Court of Sudder Foujdaree Adawlut, thereby directing and empowering him to exercise and perform all or any of the powers and duties of a Judge on Circuit, or of a visiting or Judicial Commissioner, under the provisions of Chapter **IV.** Regulation **XIII.** of 1827, Sections **X.** **XI.** and **XII.** Regulation **III.** of 1830, Section **V.** Regulation **VIII.** of 1831, and Sections **VI.** and **VII.** Regulation **VIII.** of 1833, of the **Bombay Code**, and

all

**ACT No. XXIX. OF 1852.**

all or any of the powers or duties now vested in and exercised by the Court of Sudder Foujdaree Adawlut.

**III.** It shall be lawful for the said Governor in Council of Bombay, in and by the said Commission, or by order in writing, to direct any Commissioner appointed as aforesaid to proceed on Circuit to any and such Zillahs in the said Presidency as shall be in the said Commission or Order named, and to prescribe the period of his return to the Court of Sudder Foujdaree Adawlut.

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 2ND JULY, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 2nd of July 1852.

ACT NO. — OF 1852.

*An Act to amend Act No. VI. of 1852.*

Whereas it is expedient that the toll payable under Act No. VI. of 1852 should not be payable in respect of Native Trading Vessels, *nor of Vessels known as Straits' Traders*, It is enacted as follows :

I. So much of Section XIII. of the said Act as enacts that the word "Ship" shall be held to mean and include a Schooner, Cutter, Brig, Brigantine, Barque, Junk, Steam-boat and every other Vessel as well as a Ship, is repealed.

II. The word "Ship" throughout the said Act shall be held to mean and include a Schooner, Cutter, Brig, Brigantine, Barque, Steam-boat and any Square-rigged Vessel.

III. The said Act shall not extend to vessels known as "Straits' Traders," which shall not, on their arrival at, or entrance into the harbour or roadstead of Singapore in the said Act mentioned, have come from, or be about to proceed to any port or place to the East of the said harbour or roadstead.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first Meeting of the Legislative Council of India after the 2nd day of October next.

J. P. GRANT,  
*Offy. Secy. to the Govt. of India.*

*Home*

1852

*Dept.*

*Legislative.*

A

## **DRAFT ACT**

*To amend Act No. VI. of 1852.*

*Read in Council for the first time on the 2nd of July 1852.*

*Ordered to be re-considered after the 2nd day of October 1852.*

*Cons.*

*No.*

## ACT No. XXX. OF 1852.

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***Passed by the Governor General of India in Council, on  
the 16th July 1852.***

### ***An Act for the Naturalization of Aliens.***

**W**HEREAS it is expedient to provide for the Naturalization of Aliens resident in the Territories under the Government of the East India Company, It is enacted as follows:—

**I.** Any person whilst actually residing in any part of the Territories under the Government of the East India Company may present a memorial to Government, praying that the privileges of Naturalization may be conferred upon him.

**II.** Such memorial shall state to the best of the knowledge and belief of the memorialist, his age, place of birth, place of residence, profession, trade or occupation, the length of time during which he has resided within the said Territories, that he is settled in the said Territories, or is residing within the same with intent to settle therein, and any other particulars which the Government may require to be stated therein, and such memorial shall be in writing and signed by the memorialist, and accompanied by an affidavit sworn by him, verifying the truth of the statements contained therein.

**III. The**

ACT No. XXX. OF 1852.

**III.** The memorial shall be considered by the Government to whom it shall be presented, who shall inquire into the circumstances of the case, and may require such evidence either by affidavit or otherwise as they may deem proper, in addition to the before-mentioned affidavit of the memorialist, to prove the truth of the statements contained in such memorial.

**IV.** The Government may, if they shall think fit, issue a certificate in writing reciting such of the contents of the memorial as they may consider to be true and material, and granting to the memorialist all the rights, privileges and capacities of Naturalization under this Act, except such rights, privileges or capacities, if any, as may be specially excepted in such certificate.

**V.** The certificate shall be delivered to the memorialist; and a copy or duplicate thereof, together with the memorial upon which the same shall be obtained, and any Affidavit which may accompany such memorial or be produced in support thereof, shall be filed by the Secretary to the Government, or such other Officer as the Government may direct; and such Secretary or Officer shall keep an alphabetical list of all persons who may be naturalized by such Government.

**VI.** If any material statement contained in such memorial shall be false, the Government may, if they think fit, by an order in writing, declare the certificate issued upon such memorial to be null and void to all intents and purposes, except such purposes, if any, as may be specially excepted in such order; and from and after such order all the rights, privileges and capacities derived through such certificate shall cease to exist.

**VII.** Such fees shall be payable in respect of the proceedings hereby authorized as shall be fixed by the Government.

**VIII. Upon**

ACT NO. XXX. OF 1852.

**VIII.** Upon obtaining such certificate, and taking and subscribing the oath as hereinafter prescribed, the memorialist shall within the said Territories under the Government of the East India Company be deemed a natural born subject of Her Majesty as if he had been born within the said Territories, and shall be entitled within the said Territories to all the rights, privileges and capacities of a subject of Her Majesty born within the said Territories, except such rights, privileges and capacities, if any, as may be specially excepted in such certificate.

**IX.** Nothing in this Act contained shall be construed so as to deprive the Courts of the East India Company of jurisdiction over any such naturalized person, or to give to the Courts of Her Majesty any jurisdiction over any such person not otherwise subject to such jurisdiction.

**X.** Within sixty days from the day of the date of such certificate the memorialist named in such certificate shall take and subscribe the oath contained in the Schedule annexed to this Act.

**XI.** Such oath, as well as any other oath or affidavit required by this Act, may be administered by any Magistrate or Justice of the Peace within the limits of his jurisdiction, or by any other person to be appointed for that purpose by Government, and the person who shall administer the oath mentioned in the Schedule to this Act annexed shall grant to the memorialist a certificate in writing of his having taken and subscribed such oath, and of the date of his taking and subscribing the same, and shall forward to the Government the oath so taken and subscribed together with a duplicate of such certificate, which oath and duplicate certificate shall be filed and kept with the memorial.

**XII.** The word "Government" in this Act shall be deemed to mean the person or persons for the time being lawfully entitled to administer the

## ACT No. XXX. OF 1852.

the executive Government in that part of the said Territories in which the memorialist shall reside at the time of presenting such memorial. The word "Magistrate" shall include any person lawfully exercising the powers of a Magistrate, and words denoting the masculine gender shall include the feminine.

**XIII.** In every case in which the word "oath" or "affidavit" is used in this Act, an affirmation to the same effect as the oath or affidavit required shall be sufficient in cases where the person required to make such oath or affidavit shall be a person allowed by law to affirm in civil cases, and in every such case such affirmation shall be made before the person authorized to administer the oath, and the word "oath" or "affidavit" wherever used in this Act shall include such affirmation.

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### SCHEDULE.

#### OATH.

I, A. B., of (*here state the description of the party*) do swear (*or being one of the persons allowed by law to affirm in civil cases, do affirm,*) that I will be faithful and bear true allegiance to the Sovereign of the United Kingdom of Great Britain and Ireland, and of these Territories as dependent thereon, and that I will be true and faithful to the East India Company.

(Signed)      A. B.

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 6TH AUGUST, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 6th August 1852.

ACT NO. — OF 1852.

*An Act to amend the Law relating to Anchorage Toll in the Presidency of Bombay.*

I. Section XXI. of, and Schedule C. annexed to, Act I. 1852, are hereby repealed.

II. The Governor of Bombay in Council may direct that an annual anchorage toll shall be levied on country craft and coasting vessels arriving, or being at any port in the Bombay Presidency, and such annual anchorage toll shall be levied on every such craft and vessel once every year, at the rates specified in the Schedule annexed to this Act, which shall be taken to be part of this Act, or such other rates not exceeding the rates mentioned in such Schedule as the said Governor in Council shall from time to time notify in the Government Gazette.

III. The Governor of Bombay in Council may, at his discretion, exempt or excuse any craft or vessel from payment of the said annual toll.

IV. The production of a certificate of payment of anchorage toll at any port within the Bombay Presidency shall free the craft or vessel in respect whereof the same appears to have been paid, from anchorage toll at all other ports within the same Presidency, during the year for which the certificate is granted.

V. The said Governor in Council shall from time to time fix by what officer or officers of the revenue, the said toll shall be collected.

VI. Every

VI. Every officer receiving anchorage toll shall grant a certificate thereof, which shall state up to what time the certificate is to clear the craft or vessel in respect whereof the payment is made, and shall identify the craft or vessel.

VII. No craft or vessel liable to anchorage toll under this Act shall be entitled to a port clearance at any port within the said Presidency, without production of a certificate, showing that she has paid the anchorage toll granted by this Act for the current year.

VIII. Nothing in this Act shall be considered to abolish or repeal the fees leviable under Regulation VI. 1831.

IX. Every person who shall forge or counterfeit or cause to be forged or counterfeited any certificate of payment of anchorage toll, or shall wilfully give or utter any such forged or counterfeit certificate, knowing the same to be false or counterfeit in any part, shall be punishable with imprisonment with or without hard labor not exceeding two years.

#### SCHEDULE A.

*Rates of Annual Anchorage Toll to be charged on Country Craft or Coasting Vessels arriving at any port or ports within the Bombay Presidency.*

		Rs.	As.	Pie.
Vessels below 15	Bombay candies burthen,	1	0	0
Ditto above 15 and not exceeding 25	do. do.,	2	0	0
Ditto " 25	" 50 do.,	3	0	0
Ditto " 50	" 75 do.,	4	0	0
Ditto " 75	" 100 do.,	5	0	0
Ditto " 100	" 150 do.,	7	8	0
Ditto " 150	" 200 do.,	10	0	0
And 2 rupees, 8 annas for every additional 50 candies.				

N. B.—Four Bonbay candies are to be considered to be equal to one ton.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first meeting of the Legislative Council of India, after the 6th day of November next.

J. P. GRANT,  
Secy. to the Govt. of India.



Home

1852

Dept.

Legislative.

A

## DRAFT ACT

*To amend the Law relating to Anchorage Toll in  
the Presidency of Bonbay.*

*Read in Council for the first time on the 6th  
August 1852.*

*Ordered to be re-considered after the 6th day  
of November next.*

Cons.

No.

## ACT No. XXXI. OF 1852.

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***Passed by the Governor General of India in Council, on  
the 13th August 1852.***

***An Act to repeal Clause 17, Section XVI., Regulation XX. 1817 of  
the Bengal Code.***

**W**HEREAS it is not expedient that Darogahs or other Police Officers should be entitled to a Commission on the value of property stolen or plundered which they may recover, It is hereby enacted as follows :

**I.** Clause 17, Section XVI., Regulation XX. 1817 of the Bengal Code is repealed.



## ACT No. XXXII. OF 1852.

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***Passed by the Governor General of India in Council, on  
the 20th August 1852.***

***An Act to facilitate the prosecution of certain Ministerial and Police  
Officers for certain Criminal Acts.***

WHEREAS it is expedient to enable the local Governments, and the head officers of departments or offices under Government, to prosecute their subordinate ministerial or police officers for acts of corruption, extortion, embezzlement, or other malversation, whether or not any charge be preferred by an aggrieved private party in respect of such acts, It is enacted as follows:

I. Whenever the local Government, or the head officer of a department or office under Government, shall be of opinion that there are good grounds for making a public enquiry into the truth of any imputation of corruption, extortion, embezzlement, or other malversation committed at any time during tenure of office, by any ministerial or police officer, subject to the jurisdiction of the Courts of the East India Company, and subordinate to such Government, or employed in such department or office, as the case may be, it shall be lawful for such Government, or any such head officer as aforesaid, to prosecute such officer on the part of

Government

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Government in a Criminal Court, or to nominate some person to conduct such prosecution ; and it shall also be lawful for such Government, or head officer as aforesaid, in their or his discretion, to undertake on the part of Government the prosecution in a Criminal Court of any such charge, as aforesaid, which may be brought by an aggrieved private party against any such ministerial or police officer, and such prosecutions as aforesaid shall not be barred, or affected, by reason of the party prosecuted having ceased to be in the service of Government at the time at which the charge may be brought against him.

**II.** Provided always that no Collector, Magistrate, nor head of an office in the Salt, Abkarree, or Customs Department under the grade of Commissioner, shall commence or undertake a prosecution under this Act, until he shall have obtained the permission of the Court, Board, or officer to whom he is immediately subordinate, to institute the same.

**III.** No Collector, Magistrate, Judge, or other officer, who may prosecute any officer under this Act, or cause such prosecution to be instituted, or who may conduct any preliminary investigation into the conduct of such officer connected with such prosecution, nor any of his deputies, assistants, or subordinate officers, shall act as judge in any such prosecution.

**IV.** Nothing herein contained shall be construed so as to repeal or otherwise affect Regulations **IX.** 1822 and **VII.** 1828, of the Madras Code, and Act **XXXVI.** 1837, and the said Regulations and Acts shall remain in full force with respect to the malversations and offences in the Revenue Department to which they are applicable.

## ACT No. XXXIII. OF 1852.

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*Passed by the Governor General of India in Council, on  
the 27th August 1852.*

*An Act to facilitate the enforcement of judgments in places beyond the jurisdiction of the Courts pronouncing the same.*

I. EVERY party, who shall have obtained a judgment in any Court of Her Majesty, or of the East India Company, in any part of the territories under the Government of the East India Company, or in any Court established by the authority of the Governor General of India in Council in the territory of any foreign Prince or State, and who shall be unable to enforce or obtain satisfaction of the same by execution within the jurisdiction of such court, may enforce or obtain execution of the same in any part of the said territories under the Government of the East India Company in manner following :

II. The party may apply to the court, which shall have pronounced such judgment, for a copy thereof, and also for a certificate that satisfaction of such judgment has not been obtained by execution within the jurisdiction of the said court, also for a copy of any order for execution of such judgment that may have been passed, and, if necessary, for a translation of the said judgment and order for execution into the English language.

The

ACT No. XXXIII. OF 1852.

The court, unless there be any sufficient reason to the contrary, shall cause such copy and certificate, and translation, if necessary, to be furnished, and the same shall be signed by the judge, or one of the judges of the court, and sealed with the seal of the court.

III. If such court shall be the principal civil court of original jurisdiction in the district, the judge shall describe himself accordingly in the certificate and shall also name the court and the district.

IV. If the court shall not be the principal civil court of original jurisdiction in the district, the copy of the judgment and of the order for execution, if any, the certificate of the judge, and the translation, if any, shall, without delay, be transmitted to the principal civil court of original jurisdiction in the district, and the judge, or one of the judges of such court shall issue a certificate under his hand and the seal of the court, verifying the signature of the judge of the court in which the judgment shall have been given to the documents above-mentioned; and in such certificate the judge signing the same shall describe himself as the judge, or one of the judges of the principal civil court of the district, and shall also name the court and the district.

V. All copies, translations, and certificates, which may be furnished by, or transmitted to the principal civil court of original jurisdiction in the district in which such judgment shall have been given, shall be transmitted by such court without delay to the principal civil court of original jurisdiction in the district in which the party may wish to have the judgment enforced or executed, and if such last-mentioned court be the Supreme Court of Judicature of either of the Presidencies, to the Prothonotary of the Court; and such court shall cause the said documents to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the translations, if any, or of the seal or jurisdiction

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tion of any court, or of the signature of any judge, unless the court, to which such documents shall be transmitted, shall, under any peculiar circumstances to be specified in an order, require the same.

**VI.** The copy of any judgment, or of any order for execution, when filed in the court to which it shall be transmitted for the purpose of being executed or enforced as aforesaid, shall for such purpose have the same effect as a judgment or order for execution made by such court, and may be enforced or executed by such court, or any court subordinate thereto, to which it may entrust the enforcement or execution thereof.

**VII.** When application shall be made to any of the said courts to enforce, or execute the judgment of any other court as aforesaid, the court to which the application shall be made, or referred, shall proceed to enforce or execute the same according to its own rules and mode of procedure in like cases ; and the last-mentioned court shall take cognizance of, and punish, all wrongful acts or irregularities done or committed in enforcing and executing such judgment ; and all persons disobeying or obstructing the enforcement or execution of any such judgment, shall be punishable by such last-mentioned court, in the same manner as if the said judgment had been pronounced by such court.

**VIII.** The decrees, of which execution is to be general of any Military Courts of Requests holden within the said territories under the Government of the East India Company, or mentioned in Section **XVII.** Act No. **XI.** 1841, may be enforced in the manner provided by this Act. No such decree, however, shall be enforced under this Act against the person of the debtor, if a soldier. In the case of a decree of a Military Court of Requests the copy, decree, and certificate, and translation, if any, shall be signed by the officer commanding the station or cantonment,

who

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who shall describe himself accordingly; and no proof of the decree, or of the signature or appointment of such officer, or of the jurisdiction of the court shall be necessary, unless the court to which the same may be presented shall think fit, under any peculiar circumstances to be specified in an order, to require the same.

**IX.** A petition for execution under this Act of any judgment of a moonsiff's court, or of any decree of a Military Court of Requests, may be written on plain paper.

**X.** An appeal shall lie from any order for the enforcement or execution of a judgment under this Act, in the same manner, and subject to the same rules and regulations, as if the judgment had been originally given by the court making such order.

**XI.** In this Act the word "judgment" means a judgment in a civil suit or proceeding, and includes any final decree or order in a civil suit or proceeding. The word "party" shall include any person who would be entitled to maintain a suit upon the judgment. The masculine gender shall include the feminine, and the singular number shall include the plural.

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,

THE 3RD SEPTEMBER, 1852.

The following Extract from the Proceedings of the Governor General of India in Council in the Legislative branch of the Home Department, under date the 3rd September, 1852, is published for general information.

Read a second time the Draft of a proposed Act, dated the 6th February, 1852, and published in the *Calcutta Gazette* of the 11th February, 1852, for the better regulation of Cantonments.

*Resolution.*—The Governor General in Council resolves that the following amended Draft on the subject be published for general information :

ACT NO. — or 1852.

*An Act for the better regulation of Cantonments.*

For the better regulation of Cantonments, it is hereby enacted as follows :

I. Any person, except a Sutler, or a person amenable to any Articles of War as a Camp follower, who shall convey, or attempt to convey, any spirituous liquor, or intoxicating drug, of any description, into any Military Cantonment, for the purpose of barter, or sale, without a written license, either general or special, authorizing him so to do, either from the Officer Commanding at the Station, or from some other Officer specially empowered by such Commanding Officer in that behalf, or who within such Cantonment, or within the limits of four miles from any part thereof, shall, without such license or authority, knowingly barter, sell, or supply, or offer, or attempt to barter, sell, or supply, any spirituous liquor, or intoxicating drug, to, or for the use of any European Soldier, or to, or for the use of, any European woman, being a Camp follower, or who shall, without such license or authority, have in his possession, within such Cantonment, or limits, any

any spirituous liquor, wine, or intoxicating drug, for any such purpose, shall be liable, on conviction before a Magistrate, to a fine not exceeding Fifty Rupees, or, in the discretion of the Magistrate, to imprisonment, with or without hard labour, for any period not exceeding two calendar months.

II. In case any person shall be convicted of an offence under Section I. of this Act, committed subsequently to his having been convicted of any other offence under that Section, he shall be liable, on conviction before a Magistrate, to a fine not exceeding One Hundred Rupees, or, in the discretion of the Magistrate, to imprisonment, with or without hard labour, for any period not exceeding six calendar months; and in such case any spirituous liquor, or intoxicating drugs, within such Cantonment, or limits, which at the time of the commission of such subsequent offence may belong to, or be in the possession of such person, shall, without further proof, be deemed to be in the possession of such person for the purpose of being supplied to European Soldiers contrary to the provisions of this Act, and shall, whether protected by a permit or not, be liable to be seized and confiscated under the provisions of this Act.

III. No person, other than a person within the exception in Section I., or a person duly licensed to sell such articles within such Cantonment, shall, within such Cantonment, have in his possession, remove, carry, or convey any quantity of spirituous liquor exceeding one seer or quart, nor any intoxicating drug exceeding in quantity five tolahs, without a permit, to be signed by the Officer in Command, or such other Officer as may be appointed by him to grant permits under this Act; and in case any person shall be convicted of any such offence by a Magistrate, he shall be liable to a fine not exceeding Fifty Rupees, and for any second, or subsequent offence of which he shall be so convicted, to a fine not exceeding One Hundred Rupees, or, at the discretion of the Magistrate, to imprisonment, with or without hard labour, for any term not exceeding three calendar months.

IV. Section III. of this Act shall not apply to any liquor brought into a Cantonment for the private use of any Commissioned Officer, or of any person residing within such Cantonment, not amenable to the Articles of War; provided it be accompanied

accompanied by a permit from the Collector of the Zillah, District, or place, from which it may have been procured, and provided such permit shall, within 12 hours after such liquor shall have been brought within the Cantonment, be delivered to the Officer in Command, or other Officer appointed by him to grant permits under this Act, or to the Officer in immediate charge of the Police in such Cantonment; and the Officer to whom such permit shall be delivered, shall forthwith grant a permit of his own, which shall protect such liquor in the place specified in such permit.

V. If any person, not within the exception in Section I. of this Act, shall be found committing any offence contrary to this Act, any police, or revenue officer, authorized under this Act, may immediately, without warrant, arrest such person, and also seize any spirituous liquor, wine, or intoxicating drug, together with any vessel containing the same, and any thing used for the purpose of removing, conveying, or concealing the same, which may be found in his possession, and shall thereupon, without delay, take such person, together with the things so seized, before a Magistrate.

VI. If any authorized Police, or Revenue Officer, within any Cantonment, shall have probable cause to suspect that any person, not within the exception in Section I., within such Cantonment is in the act of carrying, conveying, or removing any article subject to forfeiture under this Act, concealed either about his person, or otherwise, such Police, or Revenue Officer, may immediately arrest such person without a warrant, and may also seize any thing in, or by which such Officer may have probable cause to suspect, that any such article is concealed, and shall thereupon, without delay, take such person, together with any thing so seized, before a Magistrate, or the Officer in immediate charge of the Police within the Cantonment, who, if he shall be satisfied that there is reasonable cause for such suspicion, may direct such person, or thing, to be searched forthwith, and if any article, liable to forfeiture, be found upon such search, such person, together with the things so seized, and the articles found upon the search, shall be detained until they can be dealt with according to this Act.

VII. Any

VII. Any person, not within the exception in Section I., who shall obstruct any Officer in making any arrest, seizure, or search under this Act, and also every Officer, who shall not, without any unreasonable delay, take any person, or thing so arrested, or seized, before a Magistrate, or Officer in immediate charge of the Police, as the case may be, shall be liable, on conviction before a Magistrate, to a fine, not exceeding One Hundred Rupees.

VIII. Every Police, or Revenue Officer, who, under color of this Act, shall, without probable cause, make any arrest, or seizure, without a warrant, shall, on conviction before a Magistrate, be liable to a fine not exceeding One Hundred Rupees, which fine may be ordered by the Magistrate to be paid to the person aggrieved.

IX. No Police, or Revenue Officer shall be competent to act under the provisions of Section V. or VI. of this Act, unless he shall have a general, or special authority so to do, granted to him in writing by the Commanding Officer, or other Officer empowered by him to grant the same, or by the Officer in the immediate charge of the Police within the Cantonment.

X. In case of a conviction for any offence under this Act, the convicting Magistrate may adjudge any liquor, wine, or drugs, in respect of which the party shall be convicted, and any other spirituous liquor, wine, or intoxicating drugs, which may be found in his possession at the time of committing such offence, and the vessels containing the same, together with any thing used for the purpose of conveying, removing, or concealing the same, or any part thereof, to be confiscated ; and such Magistrate may order the whole, or any part, or parts of any fine imposed under this Act, or of the proceeds of any confiscated goods, to be paid, as soon as the same shall be realized, to the person upon whose information such conviction shall take place, or to the officer who may have apprehended the offender, or seized the goods, or to be divided among them in such proportions as he may think fit.

XI. A Magistrate may order any thing seized under the provisions of this Act, in respect of which any person shall be charged with an offence, to be detained until the person in whose possession

session the same shall have been seized shall be convicted, or acquitted of the offence charged. If the person shall be acquitted, the things so seized shall be restored; if he shall be convicted, such of the things only, if any, as shall not be adjudged to be confiscated, shall be restored, the remainder shall be dealt with as confiscated.

XII. This Act shall not apply to the sale, or supply of any article for medicinal purposes, by recognized medical practitioners, chemists, or druggists.

XIII. In the construction of this Act the word "person" shall include any person not within the exception in Section I., whether European or not; the word "Cantonment" shall include a "Fortress, or Garrison," or *Military bazar station*; the word "Soldier" shall include any Non-Commissioned Officer; the word "Magistrate" shall include a Joint Magistrate, or any person lawfully exercising the powers of a Magistrate, or a Justice of the Peace, within the limits of the jurisdiction of any of the Supreme Courts of Judicature; the words "spirituous liquor" shall include toddy in a state of fermentation, or after it has been fermented. Words in the singular number shall include the plural, and words denoting the masculine gender shall include the feminine.

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Ordered, that the Draft now read be re-considered at the first meeting of the Legislative Council of India, after the 3rd day of December next.

J. P. GRANT,  
*Secy. to the Govt. of India.*

Home

1852

Dept.

Legislative.

A

## **DRAFT ACT**

*For the better regulation of Cantonments.*

*Read in Council for the second time on the 3rd  
day of September 1852.*

*Ordered to be re-considered after the 3rd day  
of December next.*

*Cons.*

*No.*

## ACT No. XXXIV. OF 1852.

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***Passed by the Governor General of India in Council, on  
the 10th September 1852.***

***An Act for the prevention of Gambling in the Settlement of Prince of  
Wales' Island, Singapore and Malacca.***

WHEREAS the vice of gambling has much increased, and many gambling-houses have been established within the several stations of the Settlement of Prince of Wales' Island, Singapore and Malacca, for suppression of which the laws now in force are inadequate, It is enacted as follows :

I. Every person who, within the Settlement of Prince of Wales' Island, Singapore and Malacca, shall keep a common gaming-house, or any room or other place used for the purposes of a common gaming-house, or who shall have the care or management thereof, or shall in any manner conduct the business of any such common gaming-house, either as banker, shroff, croupier or otherwise, shall, on conviction before the Court of Quarter Session of the said Settlement, be punishable by imprisonment, with or without hard labor, for any term not exceeding six calendar months, or, in the discretion of the Court, to a fine not exceeding Five Hundred Dollars, and in default of payment of such fine, where a fine shall be imposed, the offender may be imprisoned by the said Court, with

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with or without hard labor, either in the House of Correction or Her Majesty's Jail, for any period not exceeding six calendar months.

**II.** In default of other evidence proving any house, room, or place to be used as a common gaming-house, it shall be enough, in support of the allegation in any charge that any house, room, or place is a common gaming-house, to prove that such house, room, or place is kept or used for playing therein at cards, dice, poh, or any unlawful game, and that a bank is kept there by any one or more of the players exclusively of the others, or that the chances of any game played therein are not alike favorable to all the players, including among the players the banker or other person by whom the game is managed, or against whom the other players stake, play, or bet ; and every such house, room, or place shall be deemed a common gaming-house.

**III.** Every person who shall be found in any such common gaming-house playing or gaming with cards, dice, counters, poh, money, or other instruments of gaming, or who shall be found there present for the purpose of gaming, or who shall be found gaming with cards, dice, counters, poh, money, or other instruments of gaming in any public street, place, or thoroughfare within the said Settlement, whether playing for any money, wager, stake or otherwise, shall be punishable, on conviction before the Court of Quarter Session of the said Settlement, by imprisonment for any term not exceeding three calendar months, or, in the discretion of the said Court, by fine not exceeding Two Hundred Dollars, and in default of payment of such fine, may be imprisoned by the said Court, with or without hard labor, either in the House of Correction or in Her Majesty's Jail, for any period not exceeding three calendar months ; and any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

**IV.** Any

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IV. Any Justice of the Peace of the said Settlement, upon information laid before him on oath that there is reason to suspect any house, room, or place within the said Settlement to be used as a common gaming-house, may, by his warrant, give authority to any Peace Officer of the said Settlement to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room, or other place, and to take into custody all persons whom he finds therein, whether or not then actually gaming; and to seize all instruments of gaming, and all moneys and securities for money found therein, and to search all parts of the house, room, or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and to search also the persons of those whom he so takes into custody, and to seize and take possession of all cards, dice, pohs, counters, and other instruments of gaming, which he shall find upon such search.

V. If any Peace Officer shall see any persons engaged in playing at cards, dice, poh, or other game, in any common gaming-house, it shall be lawful for such Peace Officer and his Assistants, without a warrant, to enter such gaming-house, and to apprehend all persons whom he shall find therein in the act or for the purpose of gaming, and to seize and take possession of all money and instruments of gaming found therein, or upon the persons of those so taken into custody; Provided that neither such Peace Officer nor any of his Assistants shall use force or violence for the purpose of gaining admittance into such gaming-house.

VI. When any cards, dice, pohs, gaming-table, or cloth, board, or other instruments of gaming are found in any house, room, or place, of which information has been given on oath to a Justice of the Peace that it is suspected of being used as a common gaming-house, or about the person of any of those who are found therein, it shall be evidence, until the

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the contrary is made to appear, that such house, room, or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Peace Officer, or any of his Assistants.

**VII.** On conviction of any person for keeping any such common gaming-house, or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Court of Quarter Session, which may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all moneys seized therein, to be forfeited; or in its discretion may order any part thereof to be returned to the parties appearing to have been severally thereunto entitled.

**VIII.** Any Officer of Police may arrest, without warrant, all persons whom he may see in the act of gaming in any common gaming-house, or in any public street, place, or thoroughfare in the said Settlement, and seize all cards, dice, pohs, counters, and instruments of gaming which he finds in their possession, and such cards, dice, pohs, counters, and instruments shall, on conviction of any of the parties, be forfeited.

**IX.** It shall not be necessary in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager, or stake.

**X.** Any person, who shall have been concerned in any unlawful gaming, and who shall be examined as a witness before the said Court of Quarter Session on the trial of any person or persons for a breach of any of

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of the provisions of this Act, and who upon such examination shall make true and faithful discovery, to the best of his or her knowledge, of all things as to which he or she shall be so examined, and who shall thereupon receive from the said Court a certificate in writing to that effect, shall be freed from all prosecutions under this Act for anything done before that time in respect of such unlawful gaming.

**XI.** Any Justice of the Peace of the said Settlement, upon information laid before him upon oath charging any person with being the keeper or manager of a common gaming-house, or of any room or place used for the purpose of a common gaming-house within the said Settlement, may issue his warrant directed to any Peace Officer to apprehend any such person, and to bring him before such Justice, or any other Justice of the Peace of the said Settlement, to be dealt with according to law.

**XII.** Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill played at licensed hotels, taverns, or eating-houses, or places of public resort within the said Settlement.

**XIII.** Every person who shall, by any fraud, or unlawful device, or ill practice, in playing at or with cards, dice, or other game, or in bearing a part of the stakes, wagers, or adventures, or in betting on the sides or hands of them that do play, or in wagering on the event of any game, sport, pastime or exercise, win from any other person, for himself, or any other or others, any sum of money or valuable thing, shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence, with intent to cheat or defraud such person of the same, and, being convicted thereof, shall be punished accordingly.

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**XIV.** No conviction, or other proceeding before the said Court of Quarter Session, under this Act, shall be quashed, reversed, or set aside, or adjudged void or insufficient for want of form, or be removed by *Certiorari* into Her Majesty's Court of Judicature of the said Settlement.

**XV.** The Court of Quarter Session shall, on conviction, have power to direct any portion, not exceeding one-fourth of any fine which shall be levied under the provisions of this Act, or any part of the moneys or proceeds of articles seized under the provisions of this Act, and ordered to be forfeited, to be paid to an informer; and the balance of such fines and moneys, or the whole thereof, as the case may be, shall be applied to the use of the municipal fund of the station within the said Settlement at which the same shall have been taken.

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 17TH SEPTEMBER, 1852.

The following Draft of a proposed Act was read in Council for the first time, on the 17th of September, 1852.

Act No. — of 1852.

*An Act to remove doubts as to the liability of all subjects of Her Majesty to the same jurisdictions as Natives in respect of public and Police duties and public charges incident to the holders of land or their local Agents or Managers.*

WHEREAS by virtue of Act No. IV. 1837, it is lawful for any subject of Her Majesty to acquire and hold in perpetuity, or for any term of years, property in land, or in any emoluments issuing out of land, in any part of the Territories under the Government of the East India Company; and whereas doubts have arisen whether all subjects of Her Majesty acquiring or holding property in land, or in any emoluments issuing out of land, or acting as local Agents or Managers of such property, are subject to the same jurisdictions as Natives for enforcing the discharge of public and Police duties incident to the holding of such property, or for the enforcement of public charges and assessments upon or in respect thereof; and whereas it is just and reasonable that all persons who may think fit to hold such property, or to be the local Agents or Managers thereof, should be liable to the public burthens and duties incident thereto, and in case of neglect or refusal to discharge the same should be subject to the same jurisdictions as Natives; It is therefore declared and enacted as follows :

I. No person whatever, being the owner, holder, or farmer of any property in land, or in any emoluments issuing out of land, in any part of the said Territories, whether in perpetuity or for a term, or being a local Agent or Manager of any

any such property, is by reason of his place of birth, or by reason of his descent, exempt from any public charge or assessment, or from any duty connected with the Police, or of a public nature, to which he would otherwise be subject, as the owner or holder of such property, or as a local Agent and Manager thereof.

II. For the non-payment of any such public charge or assessment, or for the breach of any such duty as aforesaid, or for any neglect or misconduct in the discharge thereof, every person, whatever may have been his place of birth, or his descent, shall be subject to the same laws, regulations, and procedure, and to the same jurisdictions as if he were a Native of the said Territories.

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Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be reconsidered at the first Meeting of the Legislative Council of India, after the 17th day of December next.

J. P. GRANT,  
*Secy. to the Govt. of India.*



*Home* 1852 *Dept.*

*Legislative.*

*A*

## **DRAFT ACT**

*To remove doubt as to the liability of all subjects of Her Majesty to the same jurisdictions as Natives in respect of public and Police duties and public charges incident to the holders of land or their local Agents or Managers.*

*Read in Council for the first time on the 17th of September 1852.*

*Ordered to be re-considered after the 17th day of December next.*

*Cong.*

*No.*

## ACT No. XXXV. OF 1852.

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***Passed by the Governor General of India in Council, on  
the 1st October, 1852.***

***An Act for the abolition of the Poll Tax within the towns of Akyab and Kyouk Phyoo, in the Province of Arracan, and for levying a Tax on lands covered by dwelling-houses within those towns.***

WHEREAS it is expedient to abolish the poll tax now levied within the towns of Akyab and Kyouk Phyoo, in the Province of Arracan, and instead thereof to levy a tax upon land covered by dwelling-houses within the said towns ; It is enacted as follows :

I. After the first day of May 1853, the levy of a poll tax within the towns of Akyab and Kyouk Phyoo, in the Province of Arracan, shall cease.

II. After the said first day of May 1853, a principal assistant of the district in which the same shall be situate shall from time to time, as he shall think fit, assess every dwelling-house within the aforesaid towns of Akyab and Kyouk Phyoo, respectively, at the rate of one pie and a half for every square cubit of land covered by such dwelling-house, the length of the cubit being estimated at eighteen inches: the amount of the said assessment shall be payable every year by the owner or occupier of

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of such dwelling-house, by equal half-yearly payments to be made in advance.

**III.** In case of non-payment of the amount assessed upon any dwelling-house within eight days after the same shall have been demanded as hereinafter mentioned, it shall be lawful for a principal assistant of the district in which such dwelling-house shall be situate, to cause such amount, or so much thereof as shall remain unpaid, together with a reasonable sum for costs, to be levied by distress and sale of the goods and chattels, to whomsoever belonging, found in such dwelling-house, or upon the goods or chattels of the owner thereof, wheresoever they may be found within the said towns, respectively; or the owner of the said dwelling-house may be sued for the amount: provided that no distress shall be made upon the goods and chattels of any person, other than the owner of the dwelling-house, for more than the arrears of assessment for the preceding year.

**IV.** The demand above referred to shall be made in manner following:—A written demand, signed by a principal assistant of the district, or some officer authorized by him in that behalf, identifying the dwelling-house, and specifying the amount claimed, the dimensions of the land covered by the dwelling-house, and the period in respect of which the amount is claimed, shall be delivered by the officer appointed to collect the same to the tenant or occupier of the said dwelling-house, or in case the demand cannot be delivered to such tenant or occupier, or there be no tenant or occupier, the same may be fixed to some conspicuous part of the dwelling-house.

**V.** It shall be lawful for a principal assistant of the district in which any such dwelling-house shall be situate, or any officer who may be authorized so to do, by writing, signed by such principal assistant, at any reasonable time in the day-time, to enter into such dwelling-house, or any

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any land adjoining thereto, in order to measure or ascertain the extent of land covered by such dwelling-house.

VI. It shall be lawful for a principal assistant of the district in which any dwelling-house liable to be assessed under this Act shall be situate, to cause a number to be painted on or affixed to such dwelling-house, for the better identifying the same; and if any person shall wilfully remove, obliterate, or destroy such number, he shall be punishable by the principal assistant, or a magistrate, or any officer lawfully having the powers of a magistrate, by a fine not exceeding twenty rupees for every such offence, and in case of non-payment thereof, by imprisonment for any term not exceeding fifteen days.

VII. In case the amount of the said assessment, or any part thereof, shall be paid by any tenant, or the same be levied by seizure and sale of his goods and chattels, such tenant may deduct the amount of the payment or levy from the rent then due, or thereafter to become due, to his landlord; and such deduction shall be equivalent to payment of that amount; and the owner of any dwelling-house shall indemnify any person whose goods may be distrained for any assessment thereon, or who may pay such assessment in order to avoid a distress or sale of his goods for such assessment.

VIII. The Commissioner of Arracan may, at his discretion, exempt any building from assessment.

IX. No assessment made under the authority of this Act shall be impeached or affected by reason of any mistake in the name of any person liable to assessment, or of anything chargeable with assessment, provided the directions of this Act be in substance and effect complied with; and no assessment nor proceedings nor other matter or thing had or done under this Act shall be removed by *certiorari*, or quashed, or set aside for want of

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of form or error of procedure in any Court of Justice, but only on the merits.

**X.** An appeal shall lie to the Commissioner of Arracan by any one who shall feel aggrieved by anything done under this Act.

**XI.** For the purposes of this Act, the following shall be the boundaries of the towns of Akyab and Kyouk Phyoo, *viz.* :

The boundaries of Akyab—to the north, the Charoogya Creek; to the west, the said creek and a road running west and south until it joins the bund called Morton's Bund, which leads down to the sea-shore; to the south, the sea; to the east, the Akyab River and Harbour.

The boundaries of Kyouk Phyoo—to the north, the sea; to the east, Oon Khyoung or Salt Golah Creek; to the west, the cantonments; to the south, Kulabadong Lands, Kangyeendan Village, and Nga Tsoung's Grant.

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 29TH OCTOBER, 1852.

The following Extract from the Proceedings of the Governor General of India in Council in the Legislative branch of the Home Department, under date the 29th October 1852, is published for general information.

Read a second time the Draft of a proposed Act, dated the 20th June 1851, and published in the *Calcutta Gazette* of the 5th July 1851, to facilitate ejection of occupiers of land whose title has ceased.

*Resolution.*—The Governor General in Council resolves that the following amended Draft on the subject be published for general information :

ACT No. —— of 1852.

*An Act to facilitate the trial of rights to attach tenures, and to eject occupiers of lands in certain cases, and to prohibit the enforcement of such rights without the assistance of a Court of Competent Jurisdiction.*

WHEREAS by Clauses 6 and 7, Section XV. Regulation VII. 1799, Clauses 2 and 4, Section XVIII. Regulation VIII. 1819, of the Bengal Code, and Section XXVI. Act I. 1845, rights are given in certain cases to attach under-tenures, to cancel leases, and to eject under-tenants or occupiers of lands whose titles have ceased, but no means are provided by which persons claiming to exercise those rights can obtain the assistance of the civil courts for that purpose, except upon a decree obtained in a regular suit; and whereas in like manner, no means, except a regular suit, are now provided by law for giving the assistance of the civil courts to persons claiming to eject tenants after the determination of their tenancies, or to eject Agents after the determination of their Agencies, and whereas the enforcement of such rights without the assistance of the civil courts is likely to cause affrays and breaches of the peace, and it is expedient to provide a more summary mode for the trial of such rights, It is enacted as follows :

I. This Act shall extend only to so much of the provinces of the Presidency of Fort William in Bengal, under the government of the Governor of that Presidency as are not within the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature at Fort William in Bengal.

II. Any

II. Any person may present a petition of complaint upon a paper bearing a stamp of the value specified in Article 8, Schedule B., Regulation X. 1829, to the judge of a civil court within whose jurisdiction the lands, or other immoveable property, or the greater part thereof, may be situate, praying for the attachment of a tenure, the avoidance of a lease, or the ejectment of a tenant or occupier of such property whose title may have ceased under the Regulations or Act above mentioned, or for assistance in any of the cases stated in the preamble to this Act, and in such petition the claimant shall state the grounds of his claim, and also the annual rent or value of the property in question. The judge shall thereupon summon the opposite party according to the ordinary course of practice in civil suits, and thereby require him to appear and answer the petition on a day to be named in the summons. On the day so named the complainant shall appear, by himself or his vakeel, and thereupon the defendant shall be called upon to appear and answer, by himself or his vakeel. Upon answer being made in court the judge shall proceed in a summary way to try the case without any further pleading or formal joinder of issue; and after causing a local inquiry and report to be made to him, if he shall consider it necessary, by the moonsiff in whose jurisdiction the land or property, or the greater part of the same, is situate, shall make an order on the petition, and, if necessary, shall grant the assistance of the court for enforcing such order in the same manner as an order for the execution of a decree. If the complainant shall make default in appearing, either by himself or vakeel, in any stage of the case, the court may dismiss the petition with costs; and if the defendant make default the court may proceed to hear and determine the case *ex parte*.

III. In case an order shall be made for cancelling a lease, or ejecting a tenant for non-payment of rent, the order shall specify the amount, upon payment of which the cancellation of the lease, or the ejectment of the tenant may be stayed.

IV. In any proceeding under this Act a decree or order for payment of rent either in a regular or summary suit shall, until reversed or altered, by appeal or in a regular suit, be conclusive evidence between the parties that such rent was due at the time of making the decree or order.

V. The judge to whom any such petition shall be presented, may, if he think fit, send it to be disposed of by the moonsiff within whose jurisdiction the property concerned, or the greater part of it, is situate, and the moonsiff shall thereupon deal with the petition as the judge is empowered to do.

VI. An appeal shall lie to the judge, if preferred within one calendar month against any order of a moonsiff, made upon a petition referred to him according to the provisions of the foregoing Section, and every order of a judge made under this Act, either originally under Section II. or upon appeal, shall be final, unless set aside by a decree

decree passed in a regular civil suit, or upon appeal, to be preferred within one calendar month, to the Sudder Dewanny Adawlut, upon the ground of the irrelevancy of this Act to the case appealed.

VII. The judge may, in his discretion, subject to any general order of the Sudder Dewanny Adawlut, refer any such matter of summary inquiry, or any such appeal from the order of a moonsiff, for disposal by a principal sudder ameen within his district, who shall deal with the case in the same manner as the judge is empowered to do, with the exception that he shall not exercise the powers conferred on the judge by Section V. In any case referred to a principal sudder ameen under this Section, his order shall be final, subject to a regular suit and to the same appeal as from the order of a judge.

VIII. In any case in which a moonsiff would have jurisdiction to entertain a regular suit for the recovery of the property in dispute, the petition of complaint may be presented to him in the first instance, and he shall exercise the same powers as if the case were sent to him to be disposed of under Section V.

IX. If any person shall use force for the purpose of attaching a tenure, or dispossessing or ejecting the occupier of land, or other immoveable property, except by virtue of an order under this Act, or the decree or order of a court or officer of competent jurisdiction, or if any person shall, by unlawful threat or intimidation, cause the occupier of such land or property to quit, or deliver up the possession thereof, such person, together with all persons aiding and abetting, shall be liable, on conviction, to the same punishment as if he had committed an offence under Section VII. Act IV. 1840, and the Magistrate, upon conviction of the offender, shall restore the person so dispossessed or ejected to possession of the land or other immoveable property, and maintain such possession until the right to possession be determined by due course of law.

X. If any person shall have held any land or real property at a fixed rent, or at a rent assessable according to a fixed rule, such person shall not be ejected by reason only of his refusing to pay an enhanced rent, unless he shall have agreed by writing to pay such enhanced rent, or unless his liability to pay the same shall have been determined by the civil court in a regular suit.

XI. If an order shall be passed under this Act, or a decree made in a regular suit for cancelling a lease or ejecting a tenant from possession on the ground of non-payment of rent, the tenant may, at any time before the execution of such order or decree, stay the execution thereof by paying into court for the use of the complainant the amount of rent found to be due, together with the costs, if any, mentioned in the order or decree; such payment shall not preclude the tenant from impeaching any such order in a regular suit, and recovering in such

suit

suit the amount paid to prevent the execution of the order, nor shall such payment preclude him from appealing against such order or decree in cases where an appeal will lie. In like manner the holder of any lease, farm, or other limited interest liable to be cancelled under Clause IV. Section XVIII. Regulation VIII. 1819, of the Bengal Code, by reason of the non-payment of an arrear of rent, may avoid the cancellation thereof, at any time before an order or decree for the cancellation shall have been executed, by paying into Court for the use of the complainant the amount of such rent and any costs which may have been awarded against the defaulter and against himself relating to such rent. In such case the person making such payment shall be entitled to the same rights of deduction and security against the defaulter in respect of the amount paid as are given by Clauses 3 and 4, Section XIII. of the said Regulation VIII. 1819, to persons making payments to avoid sales of tenures, and shall also be at liberty to proceed by regular suit to contest the order or decree against the defaulter or against himself, and to recover back the amount which he may so pay.

XII. In any case where a petition shall be sent to a moonsiff to be disposed of under Section V., the moonsiff may, in his discretion, state a case and submit the same for the opinion of the judge upon any points of law, upon which he may entertain a doubt, and in such case the moonsiff shall make his order contingent upon the decision of such case. The judge, or a principal sudder ameen to whom a case may be referred for disposal under Section VII. of this Act, may in like manner, either upon an original hearing or upon an appeal from the moonsiff, in his discretion, state and submit a case for the opinion of the Sudder Dewanny Adawlut, and shall make his order contingent upon the decision thereof. When any such case shall be stated, the parties shall be at liberty to appear and be heard before the judge or court, by themselves or their vakeels, on a day to be fixed by such judge or court for the argument of the case, if the judge or court shall think the points of law submitted of sufficient difficulty or importance to call for their decision. In such case notice of the day fixed for the argument shall be sent to the officer who may state the case, who shall cause such notice to be forthwith communicated to both parties or their vakeels. If the court or judge shall consider that the points submitted are not of sufficient difficulty or importance to call for their decision, they may remit the case to the officer referring the same, with directions to proceed and decide it, and such officer shall thereupon hear the case argued and decide the same.

Ordered, that the Draft now read be reconsidered at the first Meeting of the Legislative Council of India after the 29th day of December next.

J. P. GRANT,

*Secy. to the Govt. of India.*



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1852

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Legislative.

A

## **DRAFT ACT**

*To facilitate the trial of rights to attach tenures, and to eject occupiers of lands in certain cases, and to prohibit the enforcement of such rights without the assistance of a Court of Competent Jurisdiction.*

*Read in Council for the second time on the 29th day of October 1852.*

*Ordered to be reconsidered after the 29th day of December next.*

*Cols.*

*No.*

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 5TH NOVEMBER, 1852.

The following Draft of a proposed Act was read in Council for the first time, on the 5th of November 1852 :

ACT NO. —— OF 1852.

*An Act relating to Summary Suits for Arrears of rent, to sales of Putnee Talooks, and other saleable tenures, and to sales of land in satisfaction of Summary Decrees for rent.*

WHEREAS by Regulation VIII. 1831 of the Bengal Code, the hearing and decision of Summary Suits or claims relating to arrears or exactations of rents were transferred from the Judges of the Zillah or City Courts to the Collectors of Land Revenue of the several districts; and whereas by Regulation VII. 1832 of the Bengal Code, the conduct of sales of Putnee Talooks and other saleable tenures, under Regulations VIII. 1819, and I. 1820 of the same Code, and the performance of other acts preparatory to, or connected with, such sales, were transferred to the Collector or Deputy Collector of Land Revenue, or Head Assistant to the Collector or Deputy Collector, subject to an appeal as therein provided; and whereas by Act VIII. 1835, the power theretofore vested in the Judges of the Dewanny Adawlut of selling land in satisfaction of summary decrees for rent was transferred to the Collectors of Land Revenue, and it was enacted that all sales for the recovery of arrears of rent held under Clause 7, Section XV. Regulation VII. 1799, should be conducted by the Collector, his Deputy, or duly authorized Assistant, and that ten days' notice should be given of such sales by advertisement to be stuck up at the Cutcherry of the Zillah Court or local Adawlut, and that of the Collector; and whereas it is expedient that Act XXV. 1850, and Section IX. Regulation VIII. 1819 of the Bengal Code, as modified by Clause 1, Section XVI. Regulation VII. 1832 of the same Code, and as altered by the said Act XXV. 1850, should be extended to sales under Act VIII. 1835; and whereas doubts may be entertained as to who ought to exercise the jurisdiction transferred by the above-mentioned Regulations and Acts, where lands situate within the zillah or other district of one Collector, form part of an entire estate, paying revenue to

to the Collector of another zillah or district: In order therefore to avoid such doubts, and also to define who are the proper Officers to exercise such jurisdictions in cases where lands are situate in a district assigned to an independent Deputy Collector, and also in cases where lands held in Putnee, or other tenure, at one entire rent, are situate in two or more Collectorates, and to prevent any such decision or sale already made from being held invalid, upon the ground of its having been made by an Officer of a wrong district ; It is enacted as follows:

I. If the lands which may be the subject of any such sale, or to the rent of which any such suit may relate, be all situate in one Collectorate, the Collector of such Collectorate is the Collector to conduct the sale, or to hear and decide the suit. If one Talook or tenure shall comprise lands situate in two or more Collectorates, or if any lands situate in two or more Collectorates be held under one lease or engagement, or at one entire rent, the Collector, in whose Collectorate the greater part of such lands shall be situate, is the Collector to conduct the sale of such Talook, or tenure, or of such lands, and to hear and decide any summary suit relating to arrears or executions of rent in respect thereof.

II. If a Collector, to whom application shall be made to exercise any of the powers above mentioned, shall entertain any doubt as to whether the lands or the greater part of them are situate within his Collectorate, he shall report the case for the order of the Executive Government or Board to which he is subordinate, and if ordered by such Government or Board to proceed in the matter, such order shall be conclusive upon the question of his jurisdiction.

III. The word "Collectorate" in this Act means the zillah or other district, to which a Collector is appointed, and no lands situate beyond the limits of such zillah or district, shall be deemed to be situate within the Collectorate, by reason of their forming part of an estate paying revenue to the Collector thereof.

IV. An independent Deputy Collector may, within his Deputy Collectorate, exercise all the powers and jurisdictions of a Collector with which he may be entrusted, in the same manner and to the same extent as a Collector may do within his Collectorate, and with reference to the exercise of such powers and jurisdictions, his Deputy Collectorate shall be deemed a Collectorate.

V. An independent Deputy Collector is an Officer appointed by Government to act as Deputy Collector, independently of a Collector. A Deputy Collectorate is the district within which an independent Deputy Collector is directed by Government to act.

VI. In

VI. In cases of sales by an independent Deputy Collector, under the abovementioned Regulations or Act, any notice thereby required to be stuck up at the Cutcherry of the Collector, may be stuck up at the Cutcherry, of the Deputy Collector.

VII. An independent Deputy Collector may exercise the powers assigned to him over any part of his Deputy Collectorate in public Cutcherry, in whatever part of his Deputy Collectorate the same may be situate or held.

VIII. Any notice required by the abovementioned Regulations or Act, to be given by advertisement to be stuck up at the Cutcherry of the Zillah Court or local Adawlut, shall be stuck up at the Zillah Court or local Adawlut within the jurisdiction of which the lands to be sold, or the greater portion of them, as the case may be, shall be situate.

IX. No order, decision, or sale, made under any of the aforesaid Regulations, or under the aforesaid Act, before the passing of this Act, shall be disputed, or deemed invalid, upon the ground that the Collector, Deputy Collector, or other Officer making the same was not the Collector, Deputy Collector or Officer of the proper district; or upon the ground that the Cutcherry, at which notice of such sale was given, was not the Cutcherry of the proper district, unless proceedings shall, previously to the passing of this Act, have been commenced, for the purpose of disputing the validity of such order, decision, or sale, upon such ground.

X. Act XXV. 1850, and Section IX. Regulation VIII. 1819 of the Bengal Code, as modified by Clause 1, Section XVI. Regulation VII. 1832 of the same Code, except so far as the same has been altered by the said Act XXV. 1850, are hereby extended to all sales under Act VIII. 1835.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be reconsidered at the first Meeting of the Legislative Council of India, after the 5th day of January 1853.

J. P. GRANT,  
*Secy. to the Govt. of India.*

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## **DRAFT ACT**

*Relating to Summary Suits for Arrears of rent, to sales of Putnee Talooks, and other saleable tenures, and to sales of land in satisfaction of Summary Decrees for rent.*

*Read in Council for the first time, on the 5th of November 1852.*

*Ordered to be reconsidered after the 5th day of January 1853.*

*Cons.*

*No.*

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 5TH NOVEMBER, 1852.

The following Draft of a proposed Act was read in Council, for the first time, on the 5th of November 1852.

Act No. — of 1852.

*An Act for the amendment of Procedure in cases of appeal to the Sudder Courts in the Presidency of Fort William in Bengal.*

WHEREAS it is desirable to simplify and shorten the procedure and modes of pleading in regular appeals to the Sudder Dewanny Adawlut in the said Presidency, It is enacted as follows:

I. Act IV. 1850, and Sections II., III. and IV., Act XXX. 1850, are hereby repealed.

II. Every petition of regular appeal in a case appealable to the Sudder Court shall be presented to the Court in which the decision was passed within six weeks from the day of the decision ; such petition of appeal shall contain only notice that the party, being dissatisfied with the judgment, is desirous of appealing from it, except in cases of petitions under Section IX. of this Act.

III. On presentation of a petition of regular appeal to the Court, in which the decision was passed, notice thereof to the respondent, as well as a proclamation to the same effect, shall immediately issue from that Court. If the notice cannot be personally served, the proclamation shall at once be fixed upon the door of the respondent's dwelling-house, or in some conspicuous place in the village where he usually resides, or in cases in which the respondent may not have a fixed residence within the jurisdiction of the Company's Courts, the proclamation may be fixed up in the manner aforesaid on his house of business or Cutcherry, or the notice may be served on his known local Agent. The Nazir is to return the order of notice or proclamation with an endorsement, stating at what times and places it may have been served or fixed up. The return of the Nazir is to be filed in Court, and to form a part of the record of the trial.

IV. The Rule in Section XI. Regulation VI. 1793, which directs copies of all original papers transmitted to the Sudder Dewanny Adawlut with the record of an appealed case to be made out and deposited in the Court in lieu of the originals, is hereby

hereby modified, and it shall only be necessary to copy the exhibits and any papers of importance which either of the parties may specify, including the pleadings, or any parts of them which may be desired by either of the parties.

V. The appeal record shall be certified to the Sudder Dewanny Adawlut as soon as conveniently may be after the présentation of the petition of appeal.

VI. On arrival of the appeal record at the Sudder Court, notice may be given, by a notice to be affixed in the Court-house of the Sudder Dewanny Adawlut, or in such form and manner as the Court shall order by a Rule to be framed under Section II. Act XVII. 1841, to the appellant, to file within four weeks his distinct grounds of objection to the decision of the Court below, in the form of issues in appeal, according to the forms now in use for that purpose, or which may hereafter be prescribed by the Court. On failure to file the issues within four weeks, the appeal shall be dismissed, unless the appellant shall show reasonable cause to the satisfaction of the Court for his default. The issues, unless as hereafter provided, shall be on paper bearing the stamp duty prescribed by Article 9, Schedule B. Regulation X. 1829. A paper of specific objections to the judgment, and detailed grounds and reasons for preferring the appeal, may be filed, in addition to the issues, within the above term of four weeks at the option of the appellant, on paper bearing the above stamp duty, in which case the issues may be on plain paper.

VII. On the filing of the issues by the appellant, notice shall be given to the respondent, in the manner prescribed by the preceding Section of this Act, to file his counter-issues within four weeks. The respondent may, in addition to the counter-issues, file a paper containing an answer to any specific objections or detailed reasons of appeal which may have been filed by the appellant. At the expiration of the said last mentioned space of time, the record shall be considered complete, and the case ready for hearing. If the counter-issues be filed alone, they shall be on paper bearing the stamp duty prescribed by Article 9, Schedule B. Regulation X. 1829, but if an answer to any specific objections or detailed reasons of appeal be also filed on paper bearing that stamp duty, the counter-issues may be on plain paper.

VIII. Appeals by paupers shall be preferred in all respects as heretofore; except that the distinct grounds of objection to the decision of the Court below, in the form of issues in appeal, shall be presented within four weeks from the date of permission to appeal as a pauper. If specific objections to the judgment and detailed reasons for preferring the appeal be also presented, they shall be presented within the same four weeks.

IX. If

IX. If an appeal be preferred upon points of law only, without disputing any of the facts found by a judgment of the Lower Court, the appellant may give notice of his intention to appeal upon points of law only, without specifying the points in his petition, and such notice shall bar any appeal upon the facts. If the appellant, in an appeal under this Section, shall intend to appeal against the legal construction put upon any document in the Court below, he shall give notice of such intention, in his petition of appeal, in order that the document may be forwarded to the Sudder Dewanny Adawlut, and unless such notice be given the appellant shall not be at liberty to controvert the legal construction put upon such document in the Court below. The petition of appeal, however, shall merely give notice of the intention, but need not specify the objections to the construction put upon the document. An appeal under this Section shall be specially certified to the Sudder Dewanny Adawlut as an appeal of Law only. In such appeals, it shall not be necessary to forward to the Sudder Dewanny Adawlut any part of the record in the Lower Court, except the decree of the Court and the Nazir's return to the order for notice or proclamation of appeal, and any document of which the appellant may, in his petition of appeal, give notice of his intention to dispute the legal construction as abovementioned. In cases under this Section the respondent shall be bound to make appearance in the Sudder Dewanny Adawlut within six weeks from the serving of notice or the affixing of the proclamation of appeal in the manner provided by Section III. of this Act. At the expiration of the said space of six weeks, the Sudder Dewanny Adawlut shall fix such day as it may deem proper for the hearing and decision of the appeal upon points of Law to be laid before it in the form of issues, without regard to the place in which it may stand in the general list of appeals pending in the Court, and the Court shall also fix a day for the parties to bring in and file such issues.

X. This Act extends only to the Presidency of Fort William in Bengal.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be reconsidered at the first Meeting of the Legislative Council of India after the 5th day of January 1853.

J. P. GRANT,  
*Secy. to the Govt. of India.*

June

1852

Dept.

Legislative.

A

## **DRAFT ACT**

*For the amendment of Procedure in cases of appeal  
to the Sudder Courts in the Presidency of Fort  
William in Bengal.*

*Read in Council for the first time, on the 5th  
of November 1852.*

*Ordered to be reconsidered after the 5th day  
of January 1853.*

*Cons.*

*No.*

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 29TH NOVEMBER, 1852.

The following Draft of a proposed Act was read in Council for the first time, on the 29th November 1852:

ACT NO. — OF 1852.

*An Act to extend the jurisdiction of Magistrates, under the 53rd George 3rd, Cap. 155, Sec. 105, in cases of assaults, forcible entries, and other injuries accompanied with force, not being felonies.*

WHEREAS by an Act passed in the 53rd year of the reign of King George the 3rd, it was enacted amongst other things that it should be lawful for any Native of India resident in the East Indies or parts therein mentioned, and out of the Towns of Calcutta, Madras and Bombay, in case of any assault, forcible entry, or other injury accompanied with force, not being felony, alleged to have been done against his person or property by a British subject, to complain of such assault, forcible entry, or other injury accompanied with force, not being felony, to the Magistrate of the zillah, or district where the alleged offender should be resident, or in which such offence should have been committed, and that such Magistrate should have the power and authority therein mentioned: and whereas Natives of India, resident in the East Indies, upon complaints preferred by them under the aforesaid provisions of the said Act, may be prevented from obtaining redress under the same by reason of their inability to prove the place of their birth: and whereas it is expedient to extend the aforesaid provisions of the said Act as amended by Act IV. 1843, to cases of assaults, forcible entries, and other injuries accompanied with force, not being felonies, committed in any part of the territories under the

the Government of the East India Company, not being within the said Towns of Calcutta or Madras, or the town or Island of Bombay, or the settlement of Prince of Wales' Island, Singapore and Malacca, against the person or property of any Native of Asia, or of any other person whatever, whether a Native of India or not: It is enacted as follows:

I. The provisions of the said Act of the 53rd George 3rd and Act IV. 1843, so far as the same extend to the case of assaults, forcible entries, or other injuries accompanied with force, not being felonies, against the person or property of any Native of India, are hereby extended to the case of any assault, forcible entry, or other injury accompanied with force, not being felony, which may at any time hereafter be committed in any part of the territories under the Government of the East India Company, not being within the said towns of Calcutta or Madras, the said town or Island of Bombay, or the said settlement of Prince of Wales' Island, Singapore and Malacca, by any British subject or other person, against the person or property of any person whatever.

II. The powers in such case given to the Magistrate of the zillah or district, are hereby extended to any Joint Magistrate or other person lawfully exercising the powers of a Magistrate, in the case of any such offence as aforesaid, which may hereafter be committed within the district over which his authority extends.

Ordered that the Draft now read be published for general information.

Ordered that the said Draft be reconsidered at the first meeting of the Legislative Council of India after the 1st day of March next.

J. P. GRANT,  
*Secy. to the Govt. of India.*



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## **DRAFT ACT**

*To extend the jurisdiction of Magistrates, under the 53rd George 3rd, Cap. 155, Sec. 105, in cases of assaults, forcible entries, and other injuries accompanied with force, not being felonies.*

*Read in Council for the first time, on the 29th November 1852.*

*Ordered to be reconsidered after the 1st day of March next.*

*Couns.*

*No.*

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 7TH DECEMBER, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 7th December 1852 :

ACT NO. — OF 1852.

*An Act for the abolition of the Government monopoly of Tobacco in the Provinces of Coimbatore, Malabar and Canara.*

WHEREAS it has been deemed expedient, that the monopoly of Tobacco in the Provinces of Coimbatore, Malabar and Canara, shall be abolished, Regulations VII. and VIII. of 1811, and such parts of Regulation V. of 1831, of the Madras Code, as relate to the said monopoly, are hereby rescinded.

This Act to take effect from the 1st of 1853.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be re-considered at the first Meeting of the Legislative Council of India, after the 7th day of March 1853.

J. P. GRANT,  
Secy. to the Govt. of India.

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## DRAFT ACT

*For the abolition of the Government monopoly of  
Tobacco in the Provinces of Coimbulore, Mula-  
bur and Canara.*

*Read in Council for the first time, on the 7th  
December 1852.*

*Ordered to be reconsidered after the 7th day  
of March 1853.*

*Consl.*

*No.*

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,

THE 14TH DECEMBER, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 14th of December 1852:

ACT NO. —— OF 1852.

*An Act for the amendment of Act No. IV. of 1839.*

FROM the passing of this Act so much of Section VII. of Act No. IV. of 1839, as enacts that "no Justice of the Peace, being a proprietor or renter of a spice plantation or otherwise directly interested in the enforcement of the provisions of the said Act, shall sit and have a deliberative voice in the Court of Quarter Session when held at a Station where such Justice may be so interested," is repealed. Provided that no Justice of the Peace shall sit and have a deliberative voice in any case in which he may be the party aggrieved.

Ordered, that the Draft now read be published for general information.

Ordered, that the said Draft be reconsidered at the first Meeting of the Legislative Council of India, after the 14th day of March 1853.

J. P. GRANT,  
*Secy. to the Govt. of India.*

*Home*

1852

*Dept.*

*Legislative.*

*A*

## **DRAFT ACT**

*For the amendment of Act No. IV. of 1839.*

*Read in Council for the first time, on the 14th  
of December 1852.*

*Ordered to be reconsidered after the 14th day  
of March 1853.*

*Cons.*

*No.*

FORT WILLIAM,  
HOME DEPARTMENT,  
LEGISLATIVE,  
THE 22ND DECEMBER, 1852.

The following Draft of a proposed Act was read in Council for the first time on the 22nd December 1852.

ACT NO. —— OF 1852.

*An Act for the apprehension of Persons for offences committed out of the Territories under the Government of the East India Company, and for delivering them up to Justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them.*

WHEREAS it is expedient to provide for the apprehension and delivery up to justice for offences committed in any part of the dominions of Her Majesty, or for heinous offences committed in the territories of any Foreign Prince or State, of persons who may take refuge in any part of the territories under the Government of the East India Company, and to enable the Government of any Presidency or place within such last mentioned territories to carry out treaties entered into by or on behalf of Her Majesty, or the East India Company with any Foreign Prince or State; It is enacted as follows:—

I. If requisition be made by the person or persons for the time being, administering the executive Government of any part of the dominions of Her Majesty, to the Government of any part of the British territories in India to deliver up to justice any person accused of having committed any offence in any part of Her Majesty's dominions, subject to the Government making the requisition, against the laws thereof, and who shall be, or shall be supposed to be, in any part of the British territories in India, subject to the Government to which the requisition shall be made, or if a similar requisition be made by any Foreign Prince or State, or any Minister or Officer thereof in respect of a person accused of having committed a heinous offence in any part of the territories of such Foreign Prince or State, it shall be lawful for the Government to which the requisition shall be made to issue an order in writing for the apprehension of the person accused.

II. The

II. The order shall be signed by one of the Secretaries to the Government, it shall be directed to all Magistrates and Justices of the Peace of the Presidency or place under the control of such Government, it shall signify that the requisition has been made, shall state the nature of the offence charged, the name or other designation, if the name be not known, of the person accused, and any other description of him that may be thought necessary, and it shall require the Magistrates and Justices to whom it shall be directed to aid in the apprehension of the person accused, and to proceed in pursuance of this Act.

III. Upon the production of the order to any such Magistrate or Justice of the Peace, and also upon the production of a warrant issued by an Officer having competent authority in that behalf in the territories in which the offence shall be alleged to have been committed, for the arrest of the person accused for the same offence, and upon proof that such warrant or document would in such last mentioned territories, justify the arrest or holding to bail of the person accused for the offence charged, such Magistrate or Justice of the Peace shall examine into the truth of the charge, and for that purpose shall have the same powers as if the offence had been committed within his jurisdiction.

IV. If the evidence adduced shall in the judgment of the Magistrate or Justice of the Peace be sufficient to justify the apprehension of the person accused for the offence, the Magistrate or Justice of the Peace shall issue his warrant for the apprehension of such person. The warrant shall be issued in the same manner as a warrant for an offence cognizable by the Magistrate or Justice of the Peace issuing it, and shall contain a memorandum, stating the place in which the offence shall be charged to have been committed, and that the warrant is issued under this Act, and if issued in pursuance of an order of Government, shall also state the fact and specify the Government. The memorandum may be to the following effect:

This warrant is issued under Act No. of , for the within mentioned crime of alleged to have been committed at in and is issued by order of the Government of .

V. The warrant of any Magistrate or Justice of the Peace having jurisdiction in any part of the territories under the Government of the East India Company for the arrest of any person charged with having committed any offence whatever, may be executed within the jurisdiction of any other Magistrate or Justice of the Peace having jurisdiction in any other part of the said territories, whether in the same Presidency or not, upon having a written authority under the hand and seal of the Magistrate or Justice of the Peace, within whose

whose jurisdiction it may be executed, previously indorsed thereon, and which indorsement may be to the following effect :

*To the Nazir [or other Officer as the case may be] of the zillah of*

“ This warrant may be executed in the zillah or district of \_\_\_\_\_ ” [describing the zillah or district of the indorsing Magistrate or Justice of the Peace] by any of the Officers to whom the same is directed or by \_\_\_\_\_ [describing by his name of Office the Officer, to whom a similar warrant, issued by the indorsing Magistrate or Justice of the Peace, would be directed.]

VI. The Magistrate indorsing a warrant issued under the hand or official seal of any such other Magistrate or Justice of the Peace, shall not be liable to any action or other proceeding in consequence of any illegality in the issuing of the warrant ; but any Magistrate illegally or improperly issuing the same, shall be liable for an arrest in pursuance of the indorsement in the same manner and to the same extent only as if the warrant had been executed within his own jurisdiction.

VII. Upon the apprehension of the supposed offender, if the offence be alleged to have been committed in any part of the territories under the Government of the East India Company, he shall be carried before the Magistrate within whose jurisdiction the offence shall be alleged to have been committed, and shall be by him dealt with according to law, unless by the warrant the Officer be authorized to take bail or security, and such bail or security be given for the appearance of the person accused before the Magistrate or Justice of the Peace of the zillah or district in which the offence shall be alleged to have been committed. If the offence be charged to have been committed in any place not within the territories under the Government of the East India Company, the person arrested shall be forthwith carried before a Magistrate or Justice of the Peace, of the zillah or district in which he may be arrested. The Magistrate or Justice of the Peace, before whom the supposed offender shall be carried in pursuance of the last mentioned directions, may proceed in the same manner as in cases in which he has power to commit for trial, or to hold to bail for an offence committed within his own jurisdiction. If the evidence adduced shall be sufficient in his judgment to warrant a committal, he shall commit the accused to some place of confinement within his zillah or district, which in the judgment of the Magistrate or Justice of the Peace, shall be fit for receiving the prisoner, or if there be no fit place, to the gaol of the Presidency, there to remain until he shall be delivered up pursuant to the requisition, or shall be discharged by orders of Government. If no sufficient evidence be adduced to warrant either the committal or

or the holding to bail of the prisoner, he shall be discharged.

VIII. If the offence charged shall be one committed out of the British territories in India which, if committed within the jurisdiction of the Magistrate, would be bailable, the Magistrate or Justice of the Peace may discharge the prisoner upon his giving the necessary bail. The recognizance or bail-bond in such case shall be for the appearance of the accused before the Magistrate or Justice of the Peace on a certain day to be named therein, allowing reasonable time for receiving the orders of Government, and on such subsequent days as the Magistrate or Justice of the Peace shall from time to time appoint.

IX. If any person shall in pursuance of this Act be carried before a Magistrate or Justice of the Peace other than the one who may have issued the warrant, or a Magistrate or Justice of the Peace of the same zillah or district, the depositions and documents upon which the warrant shall have been issued, or copies thereof, to be certified under the hand and seal of the Magistrate or Justice of the Peace of the zillah or district in which the warrant was issued, shall be sent to the Magistrate or Justice of the Peace before whom such person shall be carried; and if the warrant shall be issued under an order of Government, and executed in a different Presidency or place to that under the Government issuing the order, notice of the arrest shall be forthwith communicated to such Government, who shall forward the requisition, and any documents upon which they may have acted in making the order to the Government to which the place where the arrest may be made shall be subject.

X. If the accused shall be proved to have been convicted and sentenced for the offence by a Court of competent jurisdiction in the territories in which the same may be alleged to have been committed, and to have escaped before the execution of such sentence, the Magistrate, upon proof of such conviction and sentence, and of a warrant or authority issued in such territories for the commitment or apprehension of the person accused in pursuance of the conviction and sentence, and upon proof that such conviction, sentence and warrant or authority would justify the apprehension of such person in the territories last aforesaid, may issue a warrant for his apprehension, and he may be arrested and committed in manner aforesaid without further proof, unless the person accused shall prove that such conviction or sentence was improperly obtained, or that the same has been reversed or annulled.

XI. If it shall appear to the Magistrate or Justice of the Peace, before whom any prisoner shall be carried under this Act for an offence alleged to have been committed in any territories

not

not under the Government of the East India Company, that particular circumstances exist which render it advisable that the case should be investigated by the Magistrate or Justice of the Peace of a zillah or district nearer to such territories, he shall forthwith report the case and the particular circumstances to the Government, who shall either order such Magistrate or Justice of the Peace to proceed with the case himself, or to send the case to be investigated by the Magistrate or Justice of the Peace of any other district to be named. In the latter case the prisoner shall be sent, or if the offence be bailable shall give bail to appear before such last mentioned Magistrate or Justice of the Peace, who shall have power to deal with the case as if he had issued the warrant under which the prisoner shall be arrested, and all the depositions and documents shall be forwarded to such Magistrate or Justice of the Peace. The order of Government shall be a sufficient justification for all persons acting in pursuance thereof.

XII. The Government making the order for apprehension for an offence alleged to have been committed in the territories of a Foreign Prince or State, may, if they think fit, direct that copies of the depositions, and of any exhibits upon which the original warrant or document was issued, certified under the hand of the Officer issuing such warrant, and to be proved by the person producing the same to be true copies, may be received in evidence of the criminality of the person accused. Under an order for the arrest of any person for an offence alleged to have been committed in any part of Her Majesty's dominions, copies of such documents and exhibits, certified as aforesaid, may be admitted as evidence in manner aforesaid without an order of Government and without further proof.

XIII. The Magistrate or Justice of the Peace, after committing the accused or holding him to bail as aforesaid, for any offence committed out of the territories under the Government of the East India Company, shall forthwith report the result of his proceedings to the Government to which he is subordinate, together with any remarks which he may deem necessary or proper to make upon the whole case. He shall also forward with such report a copy of all depositions which shall be taken or used before him, and of all documents referred to by such depositions, or used before him.

XIV. Upon receipt of the report, and after examining the case, the Government may, by order in writing to be signed by the Secretary to the Government, order the accused either to be discharged or to be held to bail to appear in such Court or place and at such time or times as the Government may think fit, or to be delivered up to the person authorized by the Government or Officer

Officer making the requisition, to receive and take charge of him, and the name of such person shall be specified in the order of Government. In cases falling within Act I. 1849, the Government may order the person accused to be tried under that Act.

XV. If ordered to be delivered up, the person to whom the accused may be ordered to be delivered shall not have the custody or charge of him so long as he shall remain in any part of the territories under the Government of the East India Company, but the accused shall be conveyed in custody through such last mentioned territories towards the territories in which the offence shall be alleged to have been committed, in the same manner as a prisoner sent from the station of one district to that of another, and as soon as he shall have been conveyed to the frontiers of the territories under the Government of the East India Company, he shall be delivered over to the person in that behalf appointed by the order of Government. If such person shall not attend to receive the prisoner, the latter shall be discharged out of custody.

XVI. Any Magistrate or Justice of the Peace, acting under the provisions of this Act, shall issue all necessary warrants, orders and directions for carrying the same, and also any order made under it by the Government, into effect under his signature and seal, or seal of office, if he shall have a seal of office, and all Magistrates and Officers acting in pursuance of this Act, shall have and exercise the same powers as if the offence charged had been committed within the zillah or district subject to their jurisdiction, and in cases where the accused may have been held to bail, the Magistrate may order the bail-bond to be renewed in such form as may be necessary to carry any order of Government into effect, and if such bail-bond shall not be renewed accordingly, may commit him to prison for such period as may be necessary to carry such order into effect.

XVII. In case any person arrested under this Act, shall escape out of any custody, he may be re-taken in any part of the territories under the Government of the East India Company, in the same manner as if he had escaped from custody under process for an offence committed in that part of such last mentioned territories.

XVIII. The Government may, if they think fit, previously to making an order under this Act, require some person to be named as the prosecutor of the accused, and to give security that such person, if delivered up, shall be brought to trial with as little delay as possible, and if acquitted upon such trial, shall, if he require it, be provided with the means of returning to the place where he was apprehended, or as near thereto as he may desire free of expense, and in a manner suitable to his station of life.

XIX. If

**XIX.** If a warrant shall have been issued in any part of Her Majesty's dominions for the arrest of any person for an offence alleged to have been committed therein, or for the arrest of any person for any offence whatever of which he may have been convicted in any part of Her Majesty's dominions, by a Court of competent jurisdiction, any Magistrate or Justice of the Peace within the territories under the Government of the East India Company, may, upon the production of such warrant or document and proof of the signature of the Officer signing it, and of his authority to issue the same, proceed to cause the person accused to be apprehended and committed, or held to bail, in manner aforesaid, as the case may require, without an order of Government, but if the offence shall be alleged to have been committed in any place not within the British territories in India, the person accused shall not be delivered over as aforesaid without such order.

**XX.** In cases also of necessity in which the immediate apprehension of any person accused of having committed a heinous offence as defined in Section XXII, in any of the territories mentioned in Section I. of this Act, may be necessary for the ends of justice, the person accused may be apprehended in the same manner as if the offence had been committed in the place where the person accused may be found, and after his apprehension may be committed or held to bail in manner aforesaid, as the case may require, without an order of Government, but he shall not be delivered up without such order.

**XXI.** If any person imprisoned under this Act shall not either be conveyed out of the Presidency or place in which he shall have been arrested, or be discharged or brought to trial within two calendar months after his committal over and above the time required to convey him from the place to which he was committed for confinement by the readiest way to the place where the offence shall be alleged to have been committed, it shall be lawful for the principal court of original jurisdiction in criminal cases in the district in which he shall be imprisoned, upon application by or on behalf of the prisoner, and upon proof that notice of the intention to make the application has been given to the Government, having authority in the place where the prisoner shall be detained, or to the Secretary of such Government, to order the person so committed to be discharged out of custody, either upon giving such bail as the Court may order, or without bail, unless sufficient cause shall be shown to such Court why such discharge ought not to be ordered.

**XXII.** The offences intended by the words "heinous offence" in this Act, are treason, murder, attempting to murder, rape or other great personal violence, maiming, dacoity, thuggee, robbery, burglary, breaking and entering a dwelling-house, and stealing therein, arson, setting fire to a village, house, or town, forgery or uttering

uttering forged documents, counterfeiting current coin, knowingly uttering base coin, perjury, subordination of perjury, embezzlement, whether by public officers or other persons.

XXIII. The said words "heinous offence" shall also be deemed to include cattle stealing and any offence, for which by any treaty in force between Her Majesty or the East India Company, and any foreign Prince or State, Her Majesty or the East India Company, shall, at the time of making any requisition as aforesaid, be bound to deliver up offenders to the foreign Prince or State making the same, and any other offence which in the judgment of the Government to whom the requisition shall be made, shall be of an aggravated nature, or for which the person accused cannot be punished within the territories under the Government of the East India Company.

XXIV. If by any such treaty, Her Majesty or the East India Company shall be bound to deliver up to any foreign Prince or State, any person liable to be proceeded against by the laws of such foreign Prince or State, in any case not expressly provided for by this Act, or in any manner other than that provided by this Act, it shall be lawful for the Government of any part of the territories under the Government of the East India Company, in which such person may be found, upon requisition made by or on the part of such foreign Prince or State, to adopt such proceedings for carrying such treaty into effect, and for the surrender of such person, and for making any preliminary inquiry into the charge contained in the requisition, as they may think fit, and any order of the Government in writing under the hand of one of the Secretaries of such Government, shall be a sufficient authority and justification for all acts to be done in execution thereof.

XXV. Sections V., VI. and VII., Regulation XI. 1827, of the Bombay Code, are repealed.

XXVI. The words "the Government," as used in this Act, means the Governor or Governor in Council, or other person or persons administering the executive Government. The words "British territories in India" shall include any part of the territories under the Government of the East India Company. The word "Magistrate," as used in this Act, is intended to include a Joint Magistrate, or any person lawfully exercising the powers of a Magistrate. Words in the singular number, are intended to include the plural, and words in the masculine gender to include the feminine.

Ordered, that the Draft now read, be published for general information:

Ordered, that the said Draft be re-considered at the first Meeting of the Legislative Council of India after the 22nd day of March 1853.

J. P. GRANT,  
*Secy. to the Govt. of India.*



Home

1852

Dept.

Legislative.

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## DRAFT ACT

*For the apprehension of Persons for offences committed out of the Territories under the Government of the East India Company, and for delivering them up to Justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them.*

*Read in Council for the first time, on the 22nd December 1852.*

*Ordered to be re-considered after the 22nd day of March 1853.*

*Cons.*

*No.*









